

FEDERAL CHAMBER OF AUTOMOTIVE INDUSTRIES



**CODE OF PRACTICE FOR THE
CONDUCT OF A ROAD VEHICLE
VOLUNTARY RECALL**

August 2022
RVSA Version 1.3

TABLE OF CONTENTS

| <i>Clause</i> | <i>Page</i> |
|---|-------------|
| 1 DEFINITIONS AND INTERPRETATIONS | 2 |
| 2 GENERAL | 5 |
| 3 INVESTIGATION RELATING TO DEFECTS | 6 |
| 4 OBLIGATION TO CONDUCT A SAFETY RECALL | 8 |
| 5 PREPARATION FOR RECALL AND NOTIFICATION OF OVERSEAS PURCHASERS | 9 |
| 6 NOTIFYING THE MINISTER | 10 |
| 7 PUBLICATION OF RECALL | 11 |
| 8 OWNER’S FAILURE TO RESPOND | 12 |
| 9 ADVICE TO SUPPLIERS OF MEMBER’S PRODUCTS | 13 |
| 10 RECTIFICATION OF RECALL PRODUCTS | 14 |
| 11 DESTRUCTION OF DEFECTIVE PARTS | 15 |
| 12 RECALL FILE | 16 |
| 13 PERIODIC NOTIFICATION TO INFRASTRUCTURE DEPARTMENT | 17 |
| 14 COMPLETION OF RECALL | 18 |
| 15 AUDIT | 19 |
| 16 PREPARATION AND REVISION OF CEP | 20 |
| 17 DISPUTE RESOLUTION | 21 |
| | |
| Schedule 1 – Relevant Minister and Department | 22 |
| Schedule 2 – Content of Recall Notices to Owners | 23 |
| Schedule 3 – Recall File | 25 |
| Schedule 4 – Recording of Recall Service Carried out on a Road Vehicle | 26 |
| Schedule 5 – Communications and Engagement Plan | 27 |

CODE OF PRACTICE FOR THE CONDUCT OF A ROAD VEHICLE VOLUNTARY RECALL

INTRODUCTION

The Code describes the procedures to be followed when a Member becomes aware that a Member's vehicle could have a safety related defect or does not comply with an applicable standard.

The *Road Vehicle Standards Act 2018* (Cth) provides the Minister with the powers to order a compulsory recall to rectify the defect or non-compliance but can only do so if it appears to the Minister that the supplier has not taken adequate action to conduct a voluntary recall itself.

This Code sets out a process pursuant to which a Member undertakes a voluntary recall of its vehicles as required under Commonwealth law.

The Department of Infrastructure, Transport, Regional Development, Communication and the Arts (the Department) has published a [Recalls Policy](#) which is in line with the RVS legislation. Members are encouraged to use this FCAI Code in conjunction with the Department's policy to ensure they meet their legal obligations under the RVS legislation. This is available from the Department's Vehicle Recalls [website](#).

Note: The Department is not bound by the Code / is not endorsing the Code, and the Department may request FCAI Members to undertake a recall in a way that differs from the Code.

The Code requires Members to investigate if a recall is required and if so to:

- inform the relevant authorities;
- inform the Owners and public;
- ensure that the affected vehicles can be rectified as soon as possible; and
- ensure that the affected new vehicles are not sold to Owners until they have been rectified.

As at the commencement date of this Code, the Department administers recalls of road vehicles.

The conduct of a Recall does not necessarily mean a Member's Vehicle is unsafe to operate.

For the voluntary recall of parts, accessories and vehicles that are not road vehicles or road vehicle components under the RVS legislation (e.g., off-road motorcycles), the superseded FCAI's Code of Practice for the Conduct of an Automotive Safety Recall, February 2017 should be applied until a stand-alone Code is developed for these products.

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Code, unless the context otherwise requires:

- (a) "**ACCC**" means the Australian Competition and Consumer Commission.
- (b) "**ACL**" means the Australian Consumer Law set out in Schedule 2 of the *Competition and Consumer Act 2010* (Cth);
- (c) "**Applicable Standards**" means:
 - (i) the applicable National Vehicle Standards; and
 - (ii) the applicable Model Standards.
 - (iii) the applicable standards made under section 7 of the *Motor Vehicle Standards Act 1989* (Cth);
- (d) "**Code**" means this Code of Practice (including the schedules) as amended from time to time;
- (e) "**Commencement Date**" is 31 August 2022;
- (f) "**Communication & Engagement Plan (CEP)**" means a communication and engagement plan that meets the requirements outlined in Schedule 5 to this Code;
- (g) "**Dealer**" means a person with which the Member has an agreement in place to retail new Members' Vehicles and includes Member-approved repairers (for cases where no selling dealer exists);
- (h) "**Defect**" means:
 - (i) a defect in a Road Vehicle that means the Road Vehicle:
 - (A) will, or may cause injury to any person;
 - (B) will or may cause injury to any person when used or misused in a reasonably foreseeable manner; or
 - (ii) a characteristic in a Road Vehicle that means the Road Vehicle:
 - (C) does not comply or is likely it does not comply with an applicable Model Standard and the non-compliance is of a substantive nature;
 - (D) does not comply or is likely it does not comply with an applicable standard made under section 7 of the *Motor Vehicle Standards Act 1989* (Cth) and the non-compliance is of a substantive nature; or
 - (E) does not comply or is likely it does not comply with a National Vehicle Standard and the non-compliance is of a substantive nature;
 - (iii) the Member's Vehicle is the subject of an Interim Ban or a Permanent Ban; and
 - (iv) the Member's Vehicle does not comply with a Safety Standard.but does not include an Excluded Defect;
- (i) "**Department**" means the department of the Commonwealth Government of Australia that is responsible for the conduct of Recalls as set out in Schedule 1;

- (j) **“Excluded Defect”** means a defect in a Road Vehicle which is caused by, or is attributable to:
 - (i) any act or omission of a party other than the Member or its authorised agents;
 - (ii) the Road Vehicle not having been used in accordance with the reasonable directions, instructions, recommendations or warnings provided with the Road Vehicle other than in a reasonably foreseeable manner;
 - (iii) the Road Vehicle having been involved in an accident;
 - (iv) the abnormal use or abuse of the Road Vehicle other than in a reasonably foreseeable manner;
 - (v) normal wear and tear of the Road Vehicle; or
 - (vi) the failure of the Road Vehicle to be maintained in a reasonable condition and to be properly serviced.
- (k) **“Final Notice”** means the notification to the Owner sent by registered mail to the name and address provided by NEVDIS following the failure of the Owner to respond to all previous notifications;
- (l) **“First Notice”** means a notice containing the information as set out in Schedule 2;
- (m) **“FCAI”** means Federal Chamber of Automotive Industries A.B.N. 53 008 550 347;
- (n) **“Interim Ban”** means an interim ban as defined in section 109 of the ACL;
- (o) **“Initial CEP”** has the meaning given in clause 16.1(a) of this Code;
- (p) **“Minister”** means the Minister of State for the time being administering the provisions of the RVSA as set out in Schedule 1;
- (q) **“Member”** means a Member of the FCAI which has endorsed this Code;
- (r) **“Member’s Dealer”** means a person authorised by the Member to sell and/or service, the Member’s Vehicles and/or the Member’s Parts;
- (s) **“Member’s Vehicle”** means a Road Vehicle of which the Member is the manufacturer for the purposes of the RVSA;
- (t) **“Model Standard”** means a standard determined by the Minister under subsection 89(2) of the RVSR;
- (u) **“National Vehicle Standard”** means a vehicle standard as referred to in Section 12 of the RVSA.
- (v) **“NEVDIS”** means the National Exchange of Vehicle and Driver Information System;
- (w) **“Owner”** means the registered owner of the Member’s Vehicle who is not the Member or Member’s Dealer;
- (x) **“Overseas Purchaser Notice”** has the meaning ascribed to that term in clause 1.1(g)
- (y) **“Part”** means a part, assembly, accessory or other item of equipment supplied or marketed for use in, on or with, a Road Vehicle;
- (z) **“Permanent Ban”** means a permanent ban as defined in section 114 of the ACL;

- (aa) **“Recall Service”** means, the inspection of an Affected Vehicle and the rectification of the Defect (or where necessary the replacement of the Affected Vehicle) if the Defect is found to exist in the Affected Vehicle;
- (bb) **“Recall”** means a Voluntary Recall of Recalled Vehicles conducted in accordance with this Code;
- (cc) **“Recall Date”** means the date the Member determines to conduct a Recall in accordance with clause 4.1;
- (dd) **“Recalled Vehicle”** means a Member’s Vehicle that the Member has notified the Minister is subject to a Recall under clause 4.1 of this Code. For the avoidance of doubt, the fact that a Member notifies the Minister that a particular vehicle is a Recalled Vehicle for the purposes of a Recall does not mean the vehicle actually suffers from a Defect;
- (ee) **“Related Body Corporate”** has the same meaning as section 50 of the *Corporations Act 2001* (Cth);
- (ff) **“Road Vehicle”** has the same meaning as the definition of road vehicle in the RVSA;
- (gg) **“RVSA”** means the *Road Vehicles Standards Act 2018* (Cth);
- (hh) **“RVSR”** means the Road Vehicles Standards Rules 2019;
- (ii) **“Safety Standard”** means a safety standard as defined in section 104 of the ACL;
- (jj) **“Second Notice”** means a notice containing the information as set out in Schedule 2 that is to be sent by the Member to Owners in accordance with the Initial CEP (as reviewed and amended from time to time in accordance with clause 17 of this Code);
- (kk) **“Vehicle Registration Authority”** means the authority, office or entity responsible for the time being for the registration of vehicles in Australia or, a State or Territory and includes any authority, office or entity which for the time being, with the approval of some or all of the Vehicle Registration Authorities, maintains a central registry of vehicle registration and associated data; and
- (ll) **“Voluntary Recall”** has the same meaning as under the RVSA Part 3 – Recalls of road vehicles and road vehicle components.

1.2 Interpretation

In this Code:

- (a) a word or expression (including a word or expression defined or given a special meaning) denoting the singular number only will include the plural number and vice versa and where a word or expression is defined or given a special meaning a cognate word or expression will have a corresponding meaning;
- (b) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (c) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (d) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions; and
- (e) the headings are for ease of reference only and must not be used for the purpose of interpretation.

2 GENERAL

2.1 Preparation and Endorsement

This Code has been prepared under the direction of the FCAI Board and endorsed by the FCAI Board and Members.

2.2 Commencement

This Code will come into operation on the date of approval by the FCAI Board, or, if the code is amended and that amendment is of a minor or administrative nature, the date of that amendment, and as from either date will replace all prior FCAI Codes of Practice relating to the Conduct of a Road Vehicle Voluntary Recall.

2.3 Legal Status

This Code is subject to the RVSA and all other laws. Compliance with this Code will not relieve a Member from its obligations to comply with the RVSA and all other laws.

2.4 Purpose and Scope

While the purpose of this Code is to set out the basic procedures which are to be followed by a Member in conducting a Recall, a Member may implement either generally or in a particular case, different procedures.

2.5 Review and Amendment

This Code can be reviewed and may be amended from time-to-time to take account of, among other things:

- (a) relevant changes in Federal government departments;
- (b) changes in the law;
- (c) changes in the structure, objectives or functions of FCAI or changes in the Australian automotive industry; and
- (d) any other matter or circumstance which affects, or could affect, the interpretation or operation of this Code.

3 INVESTIGATION RELATING TO DEFECTS

3.1 Initial Investigation

If a Member has reason to believe that a Defect exists, or may exist, in any model, type or category of a Member's Vehicle, the Member must as soon as practicable commence an investigation to determine whether there is a realistic prospect that the Defect exists, or may exist, in vehicles supplied to the market by the Member. In carrying out the investigation the Member must investigate and consider:

- (a) the information or advice received in relation to the incident or incidents (Incidents) which may point to the existence of a Defect;
- (b) the reported number and frequency of the Incidents;
- (c) when, and the circumstances in or under which, the Incidents have occurred or may occur where that information has been provided to the Member;
- (d) any report or advice received from the parent company/manufacturer of the product evaluating the likelihood and potential consequences of the Incidents occurring (by considering any risk assessment conducted by the manufacturer), and considering this information in light of the characteristics of the Australian market, including any assessment or re-assessment of the effectiveness of the communications and engagement strategy (see Schedule 5); and
- (e) any other relevant facts and circumstances.

Note: The Member shall conduct due diligence including asking appropriate questions of the parent company, to ensure that the defect and nature of the injury and risk is adequately and accurately conveyed in the supplier's notifications to agencies and consumers, and that the Communications and Engagement Plan is updated to reflect activities commensurate with any evolving risks.

Notwithstanding the above, if in respect of a vehicle imported into the Australian market by a Member, a Member receives notice from a parent company that road vehicles and/or road vehicle components included in the model and VIN range of those imported vehicles is subject to recall, the Member should take all reasonable steps to make appropriate inquiries of its parent company to ensure:

- A. that the defect and the nature of the risk is adequately and accurately communicated in the Member's notifications to the Department and consumers, and if necessary, the ACCC; and
- B. that any updated knowledge about the defect and the nature of the risk is notified in a timely manner.

Additionally, if a Member receives a request from a regulatory body responsible for administration of the RVSA as to whether or not a particular vehicle or model of vehicle is subject to a recall, and that Member has not imported that vehicle into Australia, the Members will make inquiries with the parent company or manufacturer and forward the result of that inquiry to the Department, and as necessary, to the ACCC.

3.2 Ongoing Investigation

During the course of a Recall, the Member must continue to monitor the evidence of the defect actually occurring in the market. This monitoring should include:

- (a) all items listed in Clause 3.1;
- (b) seeking regular updates in relation to evidence of the defect actually occurring in the market from the relevant parent company or manufacturer; and
- (c) making any other appropriate inquiries to understand any change in risk assessment.

If the risk assessment materially changes (e.g., as a result of an incident, test result or report), the Member should:

- (a) review and, as required, adjust the measures to address the risk including revising recall publication (clause 7) along with the Communication & Engagement Plan (clause 16); and
- (b) notify the Department (clause 13).

4 OBLIGATION TO CONDUCT A RECALL

4.1 General obligation

If, following an investigation conducted in accordance with clause 3.1 of this Code, the Member determines that some of its vehicles have, or may have a Defect then, subject to clause 4.2, the Member must conduct a Recall.

4.2 Exception

A Member will not have to conduct a Recall on a Member's Vehicle that would otherwise be subject to a Recall under this Code if the Defect is properly rectified on those vehicles, whether by the Member, or by the Member's Dealers, before they are delivered to an Owner.

5 PREPARATION FOR RECALL AND NOTIFICATION OF OVERSEAS PURCHASERS

- 5.1 If pursuant to Clause 4.1, a Member is required to conduct a Recall the Member or a Related Body Corporate of the Member will consider actions to be taken concurrently to ensure resolution of recall action in a timely and effective manner, including but not limited to:
- (a) promptly identify the vehicles to be recalled by Vehicle Identification Number (VIN) (or if that number is not applicable or available, by serial or like number), build date (if applicable) and/or by such other identifying particulars as are available or can be reasonably obtained;
 - (b) promptly determine the manner in which the Defect is to be rectified (if rectification is required);
 - (c) promptly identify as many of the names and addresses of the Owners of the Recalled Vehicles as possible from such records and sources (including where appropriate, NEVDIS) as are available to the Member;
 - (d) as soon as reasonably practicable, ensure that the Member's Dealers have, or will have the parts, assemblies, materials and the technical and other instructions required to rectify the Defect when the Owners present their Recalled Vehicles;
 - (e) where necessary, after considering the volume of vehicles to be recalled, provide relevant dealerships with estimates of expected number of vehicles within their prime marketing area that are subject to the Recall, and determine any actions necessary to assist in a timely completion of the Recall;
 - (f) commence the Recall of the Recalled Vehicles in accordance with the Initial CEP;
 - (g) give notice in writing to any purchasers to whom the Member supplied Recalled Vehicles who are based outside of Australia (**Overseas Purchaser Notice**):
 - (i) stating that the Recalled Vehicles are subject to the Recall;
 - (ii) providing a brief description of the Recalled Vehicle and the manner in which the Recalled Vehicle can be identified;
 - (iii) providing a brief description of the Defect and the manner in which it will be rectified;
 - (iv) if the Recalled Vehicles contain, or may contain a Defect or have a dangerous characteristic, setting out the nature of that Defect or characteristic;
 - (v) if a reasonably foreseeable use or misuse of the Recalled Vehicle is dangerous, setting out the circumstances of that use or misuse;
 - (vi) providing a copy, or the relevant details, of any notice, advertising content and/or news release relating to the Recall which is to be published or distributed by the Member; and
 - (vii) if the Recall was commenced on the basis that the Recalled Vehicles do not, or it is likely that the Recalled Vehicles do not, comply with any Applicable Standard:
 - (A) identifying the Applicable Standards with which the Recalled Vehicles do not comply, or likely do not comply; and
 - (B) setting out the nature of the non-compliance or likely non-compliance with those Applicable Standards; and

- (h) provide the Minister with a copy of all Overseas Purchaser Notices within 10 days of the Overseas Purchaser Notices being given to the relevant purchasers.

6 NOTIFYING THE MINISTER

6.1 Within 2 days of taking action in relation to a Voluntary Recall, the Member must give notice in writing to the Minister:

- (a) providing a brief description of the model, model year and variants of the vehicles to be recalled and the manner in which those vehicles can be identified;
- (b) providing the Vehicle Identification Number (VIN) (or if that number is not applicable or available, by serial or like number) of all of the Member's Vehicles that are subject to the Recall;
- (c) providing a brief description of the Defect and the manner in which it will be rectified;
- (d) if the Recalled Vehicles contain a Defect or have a dangerous characteristic, setting out the nature of that Defect or characteristic;
- (e) if a reasonably foreseeable use or misuse of the Recalled Vehicle is dangerous, setting out the circumstances of that use or misuse;
- (f) providing a copy, or the relevant details, of any notice, advertising content and/or news release (if any) relating to the Recall which is to be published or distributed by the Member; and
- (g) if the Recall was commenced on the basis that the Recalled Vehicles do not, or it is likely that the Recalled Vehicles do not, comply with any Applicable Standard:
 - (i) identifying the Applicable Standards with which the Recalled Vehicles do not comply, or likely do not comply; and
 - (ii) setting out the nature of the non-compliance or likely non-compliance with those Applicable Standards.

NOTE: Submitting recall notification to the Minister satisfies the legal requirements to notify under the Australian Consumer Law and RVSR.

7 PUBLICATION OF RECALL

7.1 Having complied with clause 5, the Member:

- (a) must without undue delay:
 - (i) inform the Member's Dealers of the Recall and of the actions which the Member's Dealers are to take in rectifying the Defect; and
 - (ii) send, or arrange to have sent to the Owners identified in accordance with clause 5.1(c) the First Notice. The First Notice can be sent by mail, e-mail and/or other direct communication, as deemed most appropriate by the Member, in accordance with the Initial CEP.

- (b) may, if deemed appropriate by the Member:
 - (i) publish a press release;
 - (ii) arrange for other advertising to be shown, broadcast or posted on or through any medium; and
 - (iii) arrange for the Member's Dealers to contact the Owners of the Recalled Vehicles by whatever means, including telephone, e-mail, text message, or personal visit.

Note: The Member shall ensure there is ongoing alignment between the risk assessment, publication of the recall, Vehicle Recalls website and Communications & Engagement Plan which may be subject to change over time if the risk assessment changes.

8 OWNER'S FAILURE TO RESPOND

- 8.1 If, according to a Member's records, an Owner of a Recalled Vehicle has not had the Recall Service carried out within 90 days (or such longer or shorter period as the Member considers appropriate) of the First Notice being sent to the Owner, or if the Member does not know, or is uncertain, of the name and/or address of the Owner, the Member must without undue delay, apply the appropriate contact methodology provided for in the Initial CEP (as reviewed and amended from time to time in accordance with clause 16 of this Code).

9 ADVICE TO SUPPLIERS OF MEMBER'S PRODUCTS

- 9.1 If a Member has reason to believe that a Defect exists in any of the Member's Vehicles and the Defect relates to a component obtained by the Member from a third party, the Member must advise the third party of the Defect as soon as possible after the Member becomes aware of the Defect. If the Member decides to conduct a Recall, the Member must advise the third party as soon as possible.
- 9.2 Where the Member deems it appropriate, the Member must seek the assistance of the third party in determining the nature of the Defect and the manner in which it will be rectified.

10 RECTIFICATION OF RECALLED VEHICLES

10.1 The Member must ensure that the Recall Service:

- (a) is carried out on all Recalled Vehicles supplied or to be supplied by the Member and presented to the Member or to the Member's Dealer as soon as reasonably practicable; and
- (b) is provided free of charge to the Owner.

Note: Nothing in the Recall remedy shall be inconsistent with what consumers are entitled to under law including the statutory guarantees under the Australian Consumer Law.

10.2 The Member must ensure that it records the fact that the Recall Service has been carried out in accordance with Schedule 4.

11 DESTRUCTION OF DEFECTIVE PARTS

- 11.1 The Member must use reasonable endeavours to ensure that all Parts of Recalled Vehicles which have a Defect, and which are in, or come into, the Member's, or the Member's Dealers or suppliers, possession or control are returned to the Member, destroyed or rendered incapable of use or re-use unless they are reworked and made safe, or otherwise safely disposed of.

12 RECALL FILE

- 12.1 Subject to Schedule 3, each Member must maintain a file, either electronically or in hardcopy, relating to each Recall conducted by the Member. The file must contain as much of the information referred to in Schedule 3 as is relevant. The file must be kept up to date and in a form and manner which will enable it to be reviewed without undue difficulty.
- 12.2 Once a Recall is closed or becomes inactive, the relevant Member must treat all customer data received from NEVDIS in accordance with the terms of the agreement under which the information was obtained.

13 PERIODIC NOTIFICATION TO THE DEPARTMENT

- 13.1 Each Member must provide to the Department details of all active Recalls being conducted by the Member in the form and timing as reasonably negotiated with the Department prior to commencement.
- 13.2 The Member shall, as it deems reasonably necessary, notify the Department of any significant barriers to recall effectiveness (for example, ongoing parts unavailability that may delay completion of a recall).
- 13.3 Where the number of vehicles subject to Recall is considered relatively high by the Member, the Member should consider development of a system to ensure they are aware of the completion rate and booking delays by Dealers.

Note: Should the Member become aware of any incident relating to the Defect involving death or serious injury, the Member shall notify the Department of the following details, if known, within two business days of becoming aware of the relevant incident:

- (a) the date of the incident;
- (b) the location of the incident, specified by city, state, territory or province, and country;
- (c) the make and model of the vehicle involved in the incident;
- (d) the nature and circumstances of the injury or death; and
- (e) the names and contact details of persons involved in or reporting any such incident, if those persons consent to provision off their contact details to the Department.

14 COMPLETION OF RECALL

- 14.1 If, having complied with this Code, some Recalled Vehicles have not had the Recall Service carried out, the Member can seek approval from the Department to make the Recall inactive.
- 14.2 If the Recall Service has been carried out on all Recalled Vehicles, the Member must advise the Department that the Recall is closed.
- 14.3 Even though a Recall has been made inactive, for a period of 10 years from the date the Recall was first notified to the Minister under clause 6.1, the Member conducting the Recall must ensure that Recalled Vehicles supplied by the Member and presented to the Member or the Member's Dealers after the Recall has been closed will have the Recall Service carried out.
- 14.4 Notwithstanding the above clauses 14.1 to 14.3, vehicles subject to this Recall Code will continue to be rectified whenever presented to the Members representative for this purpose.

15 **AUDIT**

- 15.1 The recall file referred to in clause 12 and the information and records maintained by a Member that relates to the investigations carried out in accordance with clause 3 of this Code must be made available to the Minister (or staff acting on behalf of the Minister) or the Department for the purposes of audit. This reflects, in part, the information gathering powers available to the Minister or their representatives under the Road Vehicle Standards Act.

16 PREPARATION AND REVISION OF CEP

16.1 Each Member must:

- (a) prepare a Communications and Engagement Plan (CEP) for each Recall of the Member's Vehicles conducted under this Code (**Initial CEP**). The Initial CEP must conform with, and consider each of the matters set out in Schedule 5; and
- (b) when undertaking a Recall, regularly review and amend the Initial CEP in accordance with, as applicable, the completion rate of the Recall, any change in the risk assessment of the Defect, the availability of Parts and any other relevant factors.

17 DISPUTE RESOLUTION

- 17.1 Each Member must implement a dispute resolution mechanism or system for managing complaints from Owners in relation to Recalls that is consistent with AS/NZS 10002:2022 Guidelines for complaint management in organisations. The mechanism or system must feature, at a minimum:
- (a) an Owner complaints person or team dedicated to assisting Owners with questions and complaints (**Complaints Personnel**); and
 - (b) a structure for prompt escalation of Owner issues that the Complaints Personnel are not able to resolve, with such escalation to include attention of a qualified and informed person using best endeavours to assist the Owner and resolve any dispute in accordance with the Member's obligations under the applicable laws.
- 17.2 If the Member is notified by the Department of a dispute relating to a Recall, the Member must use its best endeavours to deal promptly and fairly to address the dispute and manage it in accordance with the Member's obligations under the applicable laws.

SCHEDULE 1 - RELEVANT MINISTER AND DEPARTMENT

RELEVANT MINISTER

(Address for mandatory notification under the Road Vehicle Standards Act 2018)

Minister responsible for the Department of Infrastructure, Transport, Regional Development,
Communications and the Arts

111 Alinga Street
CANBERRA ACT 2601
GPO Box 594, CANBERRA ACT 2601)

DEPARTMENT RESPONSIBLE FOR ADMINISTERING MOTOR VEHICLE RECALLS

Department of Infrastructure, Transport, Regional Development, Communications and the Arts

(Address for notification to enable each recall to be monitored according to the requirements of this Code)

The Director
Recalls Notifications and Monitoring
Vehicle Safety Operations Branch
Department of Infrastructure, Transport, Regional Development, Communications and the Arts
GPO Box 594
CANBERRA ACT 2601

Fax: (02) 6274 7375
Email: recalls@infrastructure.gov.au
Website: www.vehiclerecalls.gov.au/

The Supplier should notify the Department by lodging a recalls notice through the Department's recalls website, which can be accessed at www.vehiclerecalls.gov.au. The website contains a link that will take a Supplier directly to the Department's [Road Vehicle Regulator \(ROVER\) system](http://www.vehiclerecalls.gov.au). Alternatively, the Supplier can directly access ROVER at <https://rover.infrastructure.gov.au>. ROVER is the IT system that supports applications under the RVS Legislation and where the Supplier will submit a recall notice to the Department.

Submitting a recall notification to the Infrastructure Department satisfies the requirement to notify the Infrastructure Minister. The Infrastructure Department's preference is for recall correspondence to be provided electronically, (via the above website) rather than by post or fax.

SCHEDULE 2

CONTENT OF RECALL NOTICES TO OWNERS

Note: In all communications with Owners pursuant to this Code, a Member must identify the risk presented by the potential Defect in clear, simple language having regard to the assessed level of risk of injury or death from the Defect, the probability of harm if the safety defect manifests, and the urgency for rectification, as appropriate.

Member communications with Owners must also use appropriately explicit language and if necessary visual aids that does not downplay the risk in terms of the urgency required in response from the owner. The assessment of urgency must take into account the age of the Recalled Vehicle, nature of the potential Defect, and its potential consequence.

A Member must use language designed to capture attention and be impactful. A Member must use bold text to highlight particularly impactful words (e.g., “urgent”, “kill”) where appropriate to the potential defect.

A Member shall avoid using generic or low-impact imagery (e.g., scenic pictures).

A Member shall provide details of the National Relay Service for Consumers who are Deaf or have a hearing or speech impairment.

A Member shall provide links or contact information to a free of charge interpreting/translation service, such as the National Accreditation Authority for Translators and Interpreters (NAATI) <https://www.naati.com.au> or Translating and Interpreting Service (TIS National) <https://www.tisnational.gov.au>.

A Member shall provide any other information or warning which the Member considers necessary or desirable in the circumstances.

1. The public notifications shall contain:

- (a) the name, address and any other relevant details of the Member (Supplier);
- (b) a clear and unambiguous description of the Recalled Road Vehicles or Road Vehicle Components;
- (c) instructions explaining how Owners can identify Recalled Vehicles;
- (d) a clear and simple description of the Defect;
- (e) Include prominently featured text, such as “URGENT SAFETY RECALL” and
- (f) a warning as to the possible or likely effect of the Defect on the Recalled Vehicles and the possible or likely consequences of driving, operating or using a Recalled Vehicle that has a Defect;
- (g) details of any limitations on or with respect to driving, operating or using a Recalled Vehicle pending the carrying out of the Recall Service;
- (h) the date on which an Owner can have a Recall Service carried out;

- (i) the place(s) at which an Owner can have the Recall Service carried out;
 - (j) where and from whom (providing where practicable the name and telephone number(s) of an office or department) information with respect to the Recall can be obtained;
2. In letter communications, a Member must:
- (a) include a red headline at or near the top of the letter and on the front of the envelope, with prominently featured text, such as "URGENT SAFETY RECALL"; and
 - (b) specify the number of attempts they have made to contact the Owner by letter, by including in the heading or subject line, words to the effect of "Contact Attempt Number xx".
3. In email or digital communications, a Member should consider using words such as "URGENT SAFETY RECALL" in the subject line or, if other forms of digital communication are used, as otherwise appropriate to draw the Owners' attention.
4. A Member must tailor communications to the individual Owner and Recalled Vehicle, to reinforce the credibility of the communication and distinguish it from commercial solicitations. This includes, where technically possible:
- (a) Addressing communications using the Owner's name (i.e. avoid "Dear Vehicle Owner" or "Dear Resident");
 - (b) Prominently displaying the Member's logo;
 - (c) Including details such as the Recalled Vehicle's make and model, and repeating these same details in the text of the communication; and
 - (d) Ensuring that all communications feature a link to a webpage offering recall-specific information and a VIN or registration lookup tool, rather than the general homepage of the Member's website or a page on the Member's website addressing recalls or the Member's Dealers repairs in general.

SCHEDULE 3

RECALL FILE

The recall file must contain and record the following:

- the dates of commencement and completion of the investigation referred to in Clause 3;
- brief particulars of the matters which led the Member to investigate whether a Defect existed or could exist;
- the date on which a decision whether to conduct a Recall was made and brief reasons for the decision;
- particulars of the Defect;
- particulars of the Recalled Vehicles including make/model/variant, year(s) of manufacture, VIN list;
- particulars of the manner in which the Recalled Vehicles in which the Defect is found are to be rectified;
- the date on which the Recall will commence;
- a soft or hard copy of any notices given to Owners (**Owner Notices**) and a record of those owners contacted;
- a copy of any notice or advice given to the Minister or the Department and the date on which each notice or advice was given;
- copies (or, where necessary, details of the content) of each advertisement, commercial or news release published and/or distributed pursuant to this Code and the date of each publication and/or distribution;
- where appropriate, the names and addresses and any other relevant particulars of the Owners of the Recalled Vehicles;
- particulars of contacts made with each Owner of a Recalled Vehicle (some or all of this information may be kept in files maintained by the Member's Dealers for the purpose);
- particulars of the Recalled Vehicles on which the Recall Service has been carried out;
- date(s) on which each Owner Notice was given to the relevant Owner(s);
- date(s) on which action is taken pursuant to Clause 9;
- details of any substantial change in the Recall, a copy of any notice given pursuant to Clause 12 and the date such notice was given;
- copies and dates of any information furnished pursuant to Clause 13;
- a copy of any approval given by the Minister or the Department for the purposes of Clause 14;
- the date of, and the reasons for, the termination of the Recall;
- particulars of the most recent information identifying purported Owners who did not respond to the Recall;
- details of any dispute in relation to the Recall and the outcome of the dispute;
- any other matters which the Member deems necessary or desirable to record.

SCHEDULE 4

RECORDING OF RECALL SERVICE CARRIED OUT ON A ROAD VEHICLE

If a Member has a database that can be searched by VIN by the Member or the Member's Dealer indicating which Recall Services have been conducted on each Recalled Vehicle, and the relevant vehicle VIN is in the database, (a) - (d) below do not have to be complied with.

If a Member does not have a database that can be searched by VIN by the Member or the Member's Dealer indicating which Recall Services have been conducted on each Recalled Vehicle, the Member or the Member's Dealer must:

- (a) Use a sticker, plate or decal ("**Label**") of a suitable size to record the 'required information' (as defined below);
- (b) Determine whether a single Label is to be used for each Recalled Vehicle, or whether one large Label is to be used to provide for a number of Recalled Vehicles;
- (c) For a car, ensure that the Label is located on the right hand front A pillar of the vehicle, or if there is insufficient room at that location, on the B pillar; and
- (d) For a motorcycle, ensure that the Label is located on the frame under the seat.

The 'required information' is sufficient information to identify the Recalled Vehicle (such information may be in the form of a code consisting of a maximum of seven characters) and the fact that the Recall Service has been carried out on the Recalled Vehicle.

SCHEDULE 5

COMMUNICATIONS AND ENGAGEMENT PLAN

General

- 1 A Communication and Engagement Plan is a plan for contacting, communicating, and engaging with Owners and the broader community, and for maximising rates of completion of the recall. It commences upon notification to the Minister in accordance with clause 6 of this Code and must be regularly reviewed through the life of each Recall to ensure adjustments are made taking into account, as applicable, completion rates, a change in the risk assessment, parts availability, etc.
- 2 A Member's Communication and Engagement Plan must consider each of the components set out in this Schedule.
- 3 In the case of the recall of a component that is likely to be traded in the second hand market, Members should consider ensuring that the state and territory Motor Traders Association is aware of the recall.

Content of Owner Communications

- 4 In alignment with the requirements of Schedule 2 to this Code, in all communications with Owners pursuant to this Code, a Member must use clear, simple language. In particular, a Member must identify the risk presented by the potential Defect in clear, simple language that emphasises the risk of injury or death from the Defect if applicable. Member communications with Owners must also use appropriately urgent terms. The assessment of urgency must have regard to the age of the Recalled Vehicle, nature of the potential Defect, the likelihood of its detection and its potential consequence and the probability of harm if the safety defect manifests. Members should ensure that any customer contact centre dealing with inquiries regarding the recall are provided with clear and concise messaging regarding the risks and importance of presenting the vehicle for the recall service.
- 5 A Member must use language designed to capture attention and be impactful. A Member must use bold text to highlight particularly impactful words (e.g., "urgent", "kill") where appropriate to the potential defect.
- 6 A Member must avoid using generic or low-impact imagery (e.g., scenic pictures).
- 7 In letter communications, a Member must:
 - (a) include a red headline at or near the top of the letter and on the front of the envelope, with prominently featured text, such as "URGENT SAFETY RECALL"; and
 - (b) specify the number of attempts they have made to contact the Owner by letter, by including in the heading or subject line, words to the effect of "Contact Attempt Number xx".
- 8 In email or digital communications, a Member must use the words "URGENT SAFETY RECALL" in the subject line or, if other forms of digital communication is used, as otherwise appropriate to draw the Owners' attention.
- 9 A Member must tailor communications to the individual Owner and Recalled Vehicle in issue, to reinforce the message's credibility and distinguish it from commercial solicitations. This includes, where technically possible, at least:
 - (a) Addressing communications using the Owner's name (i.e. avoid "Dear Vehicle Owner" or "Dear Resident");

- (b) Prominently displaying the Member's logo;
- (c) Including details such as the Recalled Vehicle's make and model, and repeating these same details in the text of the communication; and
- (d) Ensuring that all communications feature a link to a webpage offering links to recall-specific information and a VIN lookup tool, rather than the general homepage of the Member's website, or a page on the Member's website addressing recalls or the Member's Dealers repairs in general.

Type and Frequency of Communications

- 10 Subject to the other requirements outlined in this Schedule 5, the Member must determine the type, frequency and quantity of communications with Owners appropriate to the Defect. The type of communications may include letter, telephone, e-mail, text message, personal visit, social media or such other communication methods as may be appropriate.
- 11 If an Owner of a Recalled Vehicle has not had a Recall Service carried out within 90 days (or such longer or shorter period as the Member considers appropriate based on the nature of the risk) of the First Notice being sent to the Owner, the Member must send the Second Notice to the Owner.
- 12 If an Owner of a Recalled Vehicle has not had a Recall Service carried out within 90 days (or such longer or shorter period as the Member considers appropriate based on the nature of the risk) of the Second Notice being sent to the Owner, the Member must:
 - (a) conduct a vehicle title search for the relevant Recalled Vehicle in NEVDIS to verify the name and address of the Owner; and
 - (b) send the Final Notice by registered mail to the name and address provided by NEVDIS.

Members should continue to seek more finite contact details for owners of vehicles from state and territory registration authorities such as email and mobile phone contact details to aid in successful contact with the owners.

- 13 If an Owner of a Recalled Vehicle has not had a Recall Service carried out within 90 days (or such longer period as the Member considers appropriate based on the nature of the risk or other circumstances such as parts availability) after the Final Notice was sent to the Owner, the Member:
 - (a) must advise the Department; and
 - (b) may advise the Vehicle Registration Authority in the State or Territory in which the last known address of the Owner is located, of the following:
 - (i) the existence and the relevant details of the Recall;
 - (ii) the identifying particulars of the relevant Recalled Vehicle;
 - (iii) that the Owner has failed to respond to the First Notice, Second Notice and the Final Notice to have the Recall Service carried out on the Recalled Vehicle; and
 - (iv) the relevant Recalled Vehicle's Vehicle Identification Number (VIN) in electronic database format.

Owner Contact Information Not Able To be Obtained by Other Means

- 14 If deemed appropriate by the Member, the Member must:
 - (a) publish a news release regarding the Recall; or

- (b) arrange for other advertising regarding the Recall to be shown, broadcast or posted on or through any medium.

Communication and engagement design: ensuring ready access to information, and prompt, efficient scheduling of replacement

15 A Member must design its Initial CEP and supporting communication channels:

- 15.1 to raise public awareness where the Supplier considers it reasonably necessary to do so (this may be achieved, for example, through media releases and advertising); and
- 15.2 to ensure ready access by Owners to information regarding the Recall and to encourage and facilitate prompt and efficient scheduling of Recall Services.

16 A Member must ensure that the Recall database on the Member's website is easy to navigate and meets the requirements of this Code, including allowing Owners to enter a Vehicle Identification Number (VIN) into a search field and obtain immediate information about inclusion of the relevant Recalled Vehicles in an active recall and has general information about the Recall. Members should also consider use of the FCAI plate-to-VIN service to assist in vehicle identification by owners.

17 Members must design messaging to encourage Owners to have their Recalled Vehicle recalled by proactively addressing Owner concerns relating to the Recall Service. This must include messaging that:

- (a) emphasises the Recall Service is free, and can be performed by any Dealer in the Member's network (or another authorised representative of the Member) regardless of where the Recalled Vehicle was purchased;
- (b) acknowledges there may be inconvenience presented by the need to have the Recall conducted and, where applicable, features the details of all services the Member or the Member's Dealer provide that addresses the inconvenience associated with the Recall Service; and
- (c) advises Owners they may report concerns regarding the Recall to a specified person or contact point at the Member (providing contact details), if applicable.

18 Members must ensure that all messaging in relation to each Recall is accessible to Owners from a culturally and linguistically diverse (**CALD**) audience. This includes, at a minimum:

- (a) provide links or contact information to a free of charge interpreting/translation service, such as the National Accreditation Authority for Translators and Interpreters (**NAATI**) <https://naati.com.au/> or Translating and Interpreting Service (**TIS National**) <https://www.tisnational.gov.au; and>
- (b) provide details of the National Relay Service for Owners who are Deaf or have a hearing or speech impairment.

Obtaining and updating Owner contact information

19 Members must proactively maintain up-to-date contact information for Owners. This must include at least the following:

- (a) offer convenient, multiple means for Owners to update their contact information. This should include, at a minimum, instructions on the Member's website on how Owners can advise the Member or the Members Dealer of their updated contact details, with a link to an update mechanism on the page of the Member's website which relates to the Recall (if applicable); and
- (b) in communications to Owners an option for the recipient to notify the Member that the Member's Vehicle has been sold, transferred, or is otherwise being primarily driven by a party not residing at the same address as the recipient, and which invites provision of contact details for the current owner or operator of the Member's Vehicle; and
- (c) seek all consents and authorisations required to ensure the Member has the ability to request NEVDIS or the relevant Vehicle Registration Authority to supply the Member with the Owner's name, address and contact details.

MINIMUM STANDARD

