

Administration Announcement of the State Tobacco Monopoly

No. 1, 2022

The *Administrative Measures* are formulated by the State Tobacco Monopoly to strengthen the management of new forms of tobacco products such as e-cigarettes, regulate the market order of e-cigarettes, protect the health and safety of people and promote the rule of law and standardization of industrial governance in accordance with the *Tobacco Monopoly Law of the People's Republic of China*, *Law of the People's Republic of China on the Protection of Minors*, and *Implementation Regulations of the Tobacco Monopoly Law of the People's Republic of China* and other relevant laws and regulations, and now hereby announced, effective from May 1, 2022.

The State Tobacco Monopoly
March 11, 2022

(Active disclosure)

Administrative Measures for E-cigarette Management

Chapter 1 General Provisions

Article 1 These *Administrative Measures* are formulated to strengthen the management of e-cigarettes and regulate the market order of e-cigarettes, in accordance with the *Tobacco Monopoly Law of the People's Republic of China*, *Law of the People's Republic of China on the Protection of Minors*, and *Implementation Regulations of the Tobacco Monopoly Law of the People's Republic of China* and other relevant laws and regulations.

Article 2 These *Measures* apply to the production and business activities and well as the supervision and management activities related to e-cigarettes in the People's Republic of China.

Article 3 The e-cigarettes referred to herein include cartridges, smoking devices, and products sold with cartridges and smoking devices combined.

Article 4 The State Council's tobacco monopoly authority is in charge of the national supervision and management of e-cigarettes, responsible for developing and

organizing the implementation of e-cigarette industrial policies. The tobacco monopoly authorities of the provinces, autonomous regions and municipalities are in charge of implementing the relevant policies, supervising and managing e-cigarette issues within their respective jurisdictions. The tobacco monopoly authorities of the prefectures and counties with such authorities oversee the management of e-cigarettes within their respective jurisdictions.

Article 5 E-cigarette products should comply with the mandatory national standards for e-cigarettes.

Electronic cigarette production and business entities should be honest and credible and carry out their production and business activities according to the law.

Article 6 The state and the society shall strengthen public education on the health hazards of using e-cigarettes, discourage youth from using e-cigarettes, and prohibit primary and secondary school students from smoking e-cigarettes.

Chapter 2 Production and quality management

Article 7 The State Council's tobacco monopoly authority should organize professional institutions to conduct technical review of e-cigarette products based on the inspection and testing reports and other application materials.

The e-cigarette testing agencies certified by the State Council's tobacco monopoly authority shall undertake the inspection, testing, monitoring and evaluation needed for the supervision and management.

The tobacco monopoly authority shall establish an e-cigarette sampling and testing system to regularly or irregularly to conduct inspection or testing of the licensed enterprises, individuals and their products.

Article 8 The establishment of e-cigarette manufacturers (including production and processing enterprises, brand-holding companies), e-vapor matter manufacturers and manufacturers of nicotine for e-cigarettes must be reported and approved by the State Council 's tobacco monopoly authority before the projects are approved for establishment in accordance with relevant state regulations. The establishment of the above-mentioned enterprises must be approved by the State Council's tobacco monopoly authority; they must also obtain the tobacco monopoly manufacturers license and approved and registered by the market supervision and management authority. Their separation, merger, withdrawal, must be approved by the State

Council the tobacco monopoly authority, and to the market supervision and management department for the relevant registration procedures. Their separation, merger and withdrawal must be approved by the State Council's tobacco monopoly authority and registered with the market supervision and management authority. Without the tobacco monopoly manufacturer license, the market supervision and management authority shall not approve the application for registration.

The above-mentioned enterprises should report to, be reviewed and approved by the State Council's tobacco monopoly authority prior to their initial public offering of stock shares and being listed.

Article 9 The following conditions should be met before engaged in the production or business of e-cigarette products, e-vapor matter and nicotine used for e-cigarettes and being licensed as a tobacco monopoly manufacturer:

1. having the funds appropriate for the production.
2. having the technology and equipment needed for the production.
3. meeting the national policy requirements for e-cigarette industry.
4. meeting any other requirements prescribed by the State Council's tobacco monopoly authority.

The above-mentioned production enterprises should also be licensed by other relevant authorities if there are such requirements.

E-cigarette brand-holding enterprises to apply for tobacco monopoly producer license, in addition to having the qualifications specified in the first, third and fourth points of Item 1 (sic), should also submit application materials such as the e-cigarette commissioning agreement.

The applicant shall be accountable for the legality, authenticity and completeness of the application materials.

Article 10 E-cigarette business entities with tobacco monopoly production licenses to change the scope of the license or have other issues prescribed by the State Council's tobacco monopoly authority, should re-apply for a tobacco monopoly license; if other registration matters have changed, they should promptly change the tobacco monopoly license.

Article 11 The manufacturers of e-cigarettes, e-vapor matter and nicotine for e-cigarettes must get approval from the State Council's tobacco monopoly authority before they implement any infrastructure construction or technological transformation for expanding their production capacity.

Article 12 Tobacco monopoly products used by manufacturers of e-cigarette, e-vapor matter and nicotine used for e-cigarettes such as tobacco leaves (including re-manufactured tobacco leaves and tobacco stems), re-cured tobacco and tobacco shreds should be purchased from tobacco enterprises licensed for business of tobacco leaves, re-cured tobacco and tobacco shreds, and should not illegally purchase tobacco leaves, re-cured tobacco, tobacco shreds and other tobacco monopoly products as well as tobacco waste. The State Council's tobacco monopoly authority issues the purchase and sale plans of tobacco leaves, re-roasted tobacco leaves, tobacco shreds and other tobacco monopoly products.

Article 13 E-cigarette products should use registered trademarks. The regulations on the use and management of tobacco product trademarks apply to that of e-cigarettes.

Article 14 E-cigarette products should comply with the relevant provisions on packaging markings and health warnings of e-cigarette products.

Article 15 Manufacturers of e-cigarette products should establish the product quality assurance system to be accountable for the quality and safety of the e-cigarette products they have produced or registered.

For subcontracted e-cigarette manufacturers, the brand-holding companies should be accountable for the quality and safety of the e-cigarette products produced by the subcontracted manufacturers, strengthen the management of the production practices of the subcontracted enterprises to ensure that their production practice is in accordance with statutory requirements.

Article 16 The State Council's tobacco monopoly authority shall establish a unified e-cigarette product traceability system to strengthen the management of e-cigarettes throughout the whole process.

Chapter 3 Sales management

Article 17 Enterprises with tobacco monopoly wholesale licenses should get approval from the tobacco monopoly authority and change the scope of the license before they are engaged in the wholesale of e-cigarette products.

Article 18 E-cigarette retailers should apply for the tobacco monopoly retail license or changing the scope of the license from the tobacco monopoly authority.

Those with a tobacco monopoly retail license and engaged in e-cigarettes retail business should have meet the following conditions:

1. having the funds appropriate to the operation of e-cigarette retail business;
2. having a fixed premise of business separated from the residence;
3. meeting the requirements of reasonable layout of local e-cigarette retail outlets;
4. any other conditions prescribed by the State Council's tobacco monopoly authority.

E-cigarette product sales outlets shall not be located in the surrounding areas of elementary and secondary schools, special educational schools, secondary vocational schools, specialized schools and kindergartens.

Article 19 The State Council's tobacco monopoly authority shall establish a nationwide unified e-cigarette transaction management platform.

Manufacturers of e-cigarettes, e-vapor matter and nicotine used for e-cigarettes, e-cigarette wholesalers, retail entities with a tobacco monopoly license should conduct trading activities through the e-cigarette transaction management platform.

Electronic cigarette products that have not passed the technical review shall not be sold in the market. The product information of the electronic cigarette products sold in the market should be consistent with that of products that have passed the technical review.

Article 20 E-cigarette manufacturers and e-cigarette brand holding companies with a tobacco monopoly license should sell e-cigarette products to e-cigarette wholesale enterprises through the e-cigarette transaction management platform.

E-cigarette wholesale enterprises should not provide e-cigarette products to units or individuals who are not qualified to engage in e-cigarette retail business.

E-cigarette retail enterprises or individuals with a tobacco monopoly retail license who are qualified for engaged in e-cigarette retail business should purchase e-cigarette products from the local e-cigarette wholesale enterprises and should not sell any marketed e-cigarette products in an exclusive way.

Article 21 The provisions on tobacco advertising in relevant laws, regulations and rules shall apply to the supervision and management of e-cigarette advertising.

Exhibitions, forums and expos promoting e-cigarette products in various forms are prohibited.

Article 22 Selling e-cigarette products to minors is prohibited. E-cigarette

business operators should prominently set up signs of not selling e-cigarette to minors. In case it is difficult to determine whether it is a minor, presentation of identity documents should be requested.

Article 23 Selling e-cigarette products from a vending machine is prohibited.

Any individuals, legal persons or other organizations should not sell electronic cigarette products, e-vapor matter and nicotine used for e-cigarettes through information networks other than the e-cigarette transaction management platform provided by these *Measures*.

Article 24 Transportation of e-cigarette products, e-vapor matter and nicotine used for e-cigarettes shall be subject to the supervision and regulation by the tobacco monopoly authorities.

E-cigarette products, e-vapor matter and nicotine used for e-cigarette are allowed to deliver by mail or carry to a different place within a limited quantity prescribed by the relevant competent authorities of the State Council.

Article 25 Individuals are allowed to carry e-cigarette products into the territory of China within a limited quantity prescribed by the relevant competent authorities of the State Council.

Article 26 Sale of flavored e-cigarettes other than tobacco flavored one or e-cigarette products that users can add their own e-vapor matter is prohibited.

Chapter 4 Import and export trade and foreign economic and technical cooperation

Article 27 The State Council's tobacco monopoly authority supervises and manages the import and export trade of e-cigarettes and foreign economic and technical cooperation in accordance with the law.

Article 28 Enterprises holding a tobacco monopoly wholesale license, after approved by the State Council's tobacco monopoly authority and having changed the scope of the license, can be engaged in related import business.

Article 29 Requests for importing electronic cigarette products, e-vapor matter and nicotine for e-cigarettes should be reported to the State Council's tobacco monopoly authority and should comply with relevant regulations.

Imported electronic cigarette products, e-vapor matter and nicotine for e-cigarettes should be sold to e-cigarette wholesalers, manufacturers and brand-holding

enterprises through the e-cigarettes transaction management platform specified in these *Measures*.

Imported e-cigarette products sold in China should pass the technical review and use the trademark approved for registration in China.

Article 30 Imported electronic cigarette products should go through commodity inspection according to the relevant national regulations.

Article 31 Imported e-cigarette products should be marked on the packaging with the text prescribed by the State Council tobacco monopoly authority.

Article 32 The packaging of e-cigarette products exclusively for export should comply with the requirements prescribed by the State Council tobacco monopoly authority.

Article 33 E-cigarette products that are not sold in China but only for export should comply with the laws, regulations and the requirements for standard of the destination country or region; if the destination country or region does not have such laws, regulations and requirements for standards, then the relevant laws, regulations and requirements for standards of China should be complied with.

Chapter 5 Supervision and inspection

Article 34 The tobacco monopoly authority by law supervises and inspects the implementation of these *Measures*, investigates and deals with cases of violating these *Measures*, and in conjunction with other relevant authorities to investigate and deal with behaviors of producing and selling counterfeit or substandard e-cigarette products, e-vapor matter and nicotine for e-cigarettes, as well as infringement of intellectual property rights, illegal business and smuggling.

Tobacco monopoly authorities or tobacco monopoly authorities in conjunction with other relevant authorities can inspect and deal with illegal transportation of electronic cigarette products, e-vapor matter and nicotine for e-cigarettes.

Article 35 The tobacco monopoly authority can exercise the following powers when investigating and dealing with cases of violating these *Measures*:

1. questioning the parties, suspects and witnesses involved in the violation case.
2. inspecting the business premises of the parties to the violation case and handling according to the law the e-cigarettes and nicotine used for the e-cigarette products illegally produced or operated.

3. accessing and copying the contracts, invoices, books, documents, records, papers, business correspondence and other information related to the illegal activities.

Article 36 For the individuals, legal persons and other organizations violating these *Measures*, the tobacco monopoly authority may take regulatory talks, suspend qualification for trading on the platform, order to suspend business and make rectification, or even cancel their qualifications for being engaged in the production and business of electronic cigarette products, e-vapor matter and nicotine for e-cigarettes.

Article 37 The tobacco monopoly authority shall establish a credit management system to list the market entities with credit breaches as key targets for tightened supervision and inspection, while include the information of credit breaches into the national credit information sharing platform and the national enterprise credit information publication system for public information in accordance with the law.

Article 38 E-cigarette product quality supervision and inspection and the identification testing of counterfeit or inferior quality e-cigarette products shall be carried out by the e-cigarette testing agencies certified by the State Council tobacco monopoly authority or other legitimate e-cigarette testing agencies.

Article 39 Organizations and individuals reporting cases of illegal production or sale of electronic cigarette products, e-vapor matter and nicotine for e-cigarettes shall be rewarded.

Chapter 6 Supplementary provisions

Article 40 Cigarettes referred to in these *Measures* are e-cigarette components containing atomization contents. Vaping devices include e-cigarette smoking devices, heated cigarette devices and smoking devices used for other new forms of tobacco products. E-cigarette smoking devices refers to devices that vaporize the liquids and other materials for people to smoke through mouth or nose, to suck or chew. Products sold with cartridges and smoking device in combination include disposable e-cigarette cigarettes, and e-cigarette products in a single package in accordance with the relevant national standards. E-vapor matter refers to the mixture and auxiliary substances that can be vaporized fully or partially by the electronic device into aerosols.

Article 41 The business entities referred to in these *Measures* to obtain or change the relevant licensing matters, should be registered with the market

supervision and management authorities in accordance with the relevant requirements of laws.

Article 42 In violation of these Measures, punishment shall be imposed by the authorities such as the tobacco monopoly authority in accordance with their responsibilities and the provisions in the *Tobacco Monopoly Law of the People's Republic of China*, *Law of the People's Republic of China on the Protection of Minors*, Implementation Regulations of the Tobacco Monopoly Law of the People's Republic of China and other relevant laws and regulation.

Article 43 Heated cigarettes are regulated as cigarettes.

Other new forms of tobacco products are regulated in accordance with these Measures.

Article 44 These *Measures* shall be interpreted by the State Council's tobacco monopoly authority.

Article 45 These *Measures* shall come into force on May 1, 2022.