

State Tobacco Monopoly Administration

Notice on the Issuance of Administrative Rules for E-Cigarettes

Import-Export Trade and Foreign Economic and Technical Cooperation

State Tobacco Law [2022] No. 125

Provincial Tobacco Monopoly Bureaus, Zhengzhou Tobacco Research Institute of China National Tobacco Corporation, Shanghai New Tobacco Products Research Institute Co., Ltd.:

The *Notice on the Issuance of Administrative Rules for E-Cigarettes Import-Export Trade and Foreign Economic and Technical Cooperation* is hereby issued. Please abide by these Administrative Rules.

State Tobacco Monopoly Administration

October 12, 2022

Administrative Rules for E-Cigarettes Import-Export Trade and Foreign Economic and Technical Cooperation

Chapter I General Provisions

Article 1 In order to strengthen the management of e-cigarettes and regulate the import and export trade and foreign economic and technical cooperation of e-cigarette products, atomizers, nicotine for e-cigarettes, etc. (hereinafter referred to as e-cigarette products and raw materials), these Administrative Rules (“Rules” hereinafter) are formulated in accordance with the “*Tobacco Monopoly Law of the People’s Republic of China*”, the “*Regulations for the Implementation of the Tobacco Monopoly Law of the People’s Republic of China*”, and the “*Regulatory Measures for E-cigarette*” (State Tobacco Monopoly Administration Announcement No. 1/2022) among other laws, regulations and regulatory documents.

Article 2 These Rules shall apply to the import and export trade and foreign economic and technical cooperation of e-cigarette products and raw materials, as well as the related supervision and management activities within the territory of China.

Article 3 The State Tobacco Monopoly Administration (STMA) shall supervise and manage the import and export trade and foreign economic and

technological co-operation of e-cigarette products and raw materials within the territory of China in accordance with the laws and regulations, administrative provisions and these Rules. Provincial-level tobacco monopoly bureaus (including Dalian and Shenzhen Tobacco Monopoly Bureaus, hereinafter referred to as the same) are responsible for the implementation of the relevant administrative regulations and requirements of the STMA, and shall carry out supervision and management of import-export trade and foreign economic and technological co-operation of e-cigarette products and raw materials within their respective administrative regions.

Chapter II Import and Export Trade

Article 4 Imported e-cigarette products shall be sold through the e-cigarette trading management platform to enterprises holding a tobacco monopoly wholesale license and approved by the STMA to carry out wholesale business of imported products (hereinafter referred to as “import wholesale enterprises” or “IWEs”).

Article 5 E-cigarette retail business entities shall purchase imported e-cigarette products from IWEs through the e-cigarette trading management platform.

Article 6 E-cigarette manufacturers and brand-holding enterprises shall purchase imported e-cigarette raw materials for their own use, and atomizer producers shall purchase imported e-cigarette nicotine for their own use from qualified enterprises through the e-cigarette trading management platform.

E-cigarette subcontractors purchasing imported atomizers for production shall be managed as manufacturers of e-cigarette products.

Article 7 The regulations of the STMA on import shall be strictly implemented for imported e-cigarette products and raw materials traded on the e-cigarette trading management platform.

Article 8 Imported e-cigarette products are subject to a technical review by their brand holder or commissioned agent in accordance with the “*Regulatory Measures for E-cigarette*” and relevant regulations before the first importation after these Administrative Rules become effective.

Imported e-cigarette products sold in China shall pass the technical review and use the trademarks approved in China.

Article 9 Imported e-cigarette products shall be inspected in accordance with relevant state regulations for commodity inspection.

Article 10 The box and carton packaging of imported e-cigarette products shall be marked with the words “*For Sale in China Only*”, and must comply with the requirement of the STMA on product traceability.

Article 11 E-cigarette manufacturers (including manufacturing, OEM, brand-holding enterprises, etc.), atomizers manufacturers and nicotine manufacturers (hereinafter referred to collectively as “e-cigarette manufacturers”) shall produce e-cigarette products and raw materials for export within the approved scope of licensing and scale of production.

If overseas orders exceed the approved scale of production for export, the enterprises shall not produce or sell until after completing the filing procedures on the e-cigarette trading management platform in accordance with the relevant regulations of the STMA.

Article 12 E-cigarette manufacturers shall strengthen the management of exported e-cigarette products and raw materials, be responsible for the flow of such products, and complete the export filing on the e-cigarette trading management platform within 30 days after the export declaration.

Article 13 E-cigarette products for export shall comply with the laws, regulations and standards of the destination country or region; if the destination country or region does not have relevant laws, regulations or standards, exporters shall comply with the relevant laws, regulations and standards of China.

E-cigarette manufacturers shall strengthen the quality management and intellectual property protection of their exported e-cigarette products and raw materials, and establish a good image of Made-in-China products on the international market.

Article 14 E-cigarette manufacturers shall strictly follow the requirements of the STMA on the packaging of e-cigarettes for export. The boxes and cartons of e-cigarette products for export must be marked with the manufacturer’s license number. OEM producers of e-cigarette for export shall indicate the commissioned manufacturer’s license number on box and carton packaging.

Article 15 Enterprises engaged in the import and export of e-cigarette products and raw materials within the territory of China shall report import and export data to the STMA before the end of March each year.

Provincial-level tobacco monopoly bureaus shall cooperate with the relevant authorities to strengthen the statistics and data collection, and report the actual import and export data of e-cigarette products and raw materials of their administrative regions to the State Tobacco Monopoly Bureau on an annual basis.

Chapter III Foreign Investment

Article 16 The establishment of foreign-invested e-cigarette manufacturing enterprises shall follow the approval procedures required by the relevant administrative regulations of the STMA.

Article 17 Foreign-invested e-cigarette enterprises that already hold a tobacco monopoly license shall, in the case of changes in equity, shares, shares of property or other financial rights, submit a report of such changes in accordance with the “*Measures on Information Reporting of Foreign Investments*” (Decree of MOFCOM and the General Administration of Market Supervision No. 2 of 2019); they shall also apply for an updated tobacco monopoly license or re-apply for a license in accordance with the regulations of the STMA on the management of tobacco monopoly licenses.

Article 18 Newly-built e-cigarette products and raw materials production projects with foreign investment shall be examined and approved by the STMA before the project is established in accordance with the relevant state regulations, and shall comply with the provisions of the STMA on the management of e-cigarette fixed asset investment.

Article 19 Foreign investment in the wholesale and retail of e-cigarettes shall be prohibited in accordance with state policies on foreign investment.

Article 20 Government agencies, enterprises, social organizations and individuals dealing with foreign investment in e-cigarettes may, in accordance with the *Foreign Investment Law of the People’s Republic of China* and the *Measures for the Security Review of Foreign Investment* (Decree No. 37 of 2020 of NDRC and MOFCOM), put forward proposals for the security review of foreign investment to the relevant departments, and the STMA shall provide necessary assistance in accordance with the law.

Article 21 The STMA at all levels shall establish and improve the information filing of foreign-invested e-cigarette manufacturing enterprises in the respective administrative region and carry out information sharing with relevant departments. The relevant information shall include:

(i) Basic information: enterprise name, business scope, legal representative, address, etc;

(ii) Investment information: registered capital, mode of capital contribution, registered currency, actual controller, investor and the amount of capital contribution subscribed by the investor, and the payment period of registered capital;

(iii) Change information: separation, merger, cancellation, change of shares, change of controlling or relative controlling status of foreign investors, etc;

(iv) Other necessary enterprise information.

Chapter IV Technical Cooperation and Cross-border Trade in Services

Article 22 The STMA shall cooperate with the relevant departments to strengthen the supervision and management of the import and export of e-cigarette related technologies.

Article 23 As per national policies on cross-border trade in services, foreign service providers are prohibited from engaging in the wholesale, retail, import and export of e-cigarettes in China.

Article 24 Where e-cigarette manufacturers provide foreign enterprises with OEM services in comprehensive bonded zones and other special customs supervision areas, the local tobacco monopoly bureaus shall cooperate with the relevant competent authorities to provide the necessary assistance.

Article 25 E-cigarette manufacturers importing e-cigarette products and raw materials in bonded mode shall file the information of imported goods on the national e-cigarette trading management platform if the manufacturer is already under customs supervision and has already filed its finished export goods at the customs.

Chapter V Supplementary Provisions

Article 26 These Rules shall be interpreted by the STMA.

Article 27 These Rules shall come into force on the date of issuance.