



SESEC IV Translation

Regulations on Certification and Accreditation
(Call for Comments 2021)

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Introduction

On 22 November 2021, State Administration for Market Regulation (SAMR) announced the release of the revised Regulations on Certification and Accreditation (Call for Comments), and will collect public comments until 22 December 2021.

The translation offered by SESEC is as follows.

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Regulations on Certification and Accreditation (Call for Comments 2021)

Chapter I : General provisions

Article 1 [Legislative Purpose] These Regulations are formulated for the purpose of standardizing certification, accreditation, inspection and testing activities, improving national quality infrastructure, improving the quality and management level of products and services, and serving the high-quality development of the economy and society.

Article 2 [Definition] Certification as mentioned in these Regulations refers to the conformity assessment activities during which products, processes, services, management systems and personnel are certified by third-party organizations to meet relevant standards or technical specifications.

The term "inspection and testing" as mentioned in these Regulations refers to the conformity assessment activities during which products or specific objects specified by laws and regulations are tested and evaluated by professional and technical organizations; professional and technical organizations are established according to relevant standards or technical specifications, and use technical conditions and professional skills such as instruments, equipment and environmental facilities.

The term "accreditation" as mentioned in these Regulations refers to the conformity assessment activities during which the authorities prove the capabilities of certification bodies, inspection and testing bodies, validation/verification bodies, etc.

Article 3 [Scope of Application] Those engaged in certification, accreditation, inspection and related activities within the territory of the People's Republic of China shall abide by these Regulations.

Article 4 [Management System] The state implements a unified system for the management and supervision of certification, accreditation, inspection and testing.

The national certification, accreditation, inspection and testing work is implemented through a joint working mechanism involving all the relevant parties concerned, under the unified management and supervision system as well as the comprehensive coordination of the State Council's market supervision and administration department (the certification and accreditation supervision and administration department of the State Council; hereinafter referred to as the market supervision and administration department of the State Council).

An inter-ministerial joint meeting of national certification and accreditation is established as a deliberative and coordinating body.

Article 5 [Working Principles] The principles of objectivity, independence, openness, fairness, honesty and credit shall be followed throughout the certification, inspection testing, and related activities.

Article 6 [International Mutual Recognition] The state encourages international cooperation and mutual recognition activities of certification and accreditation, inspection and testing, based on equality and

mutual benefit, and actively adopts the results of international mutual recognition. International cooperation and mutual recognition activities in certification, inspection and testing shall not harm national security and social and public interests.

The international mutual recognition activities carried out by implementing the nationally unified certification system shall be carried out within the framework of international mutual recognition agreements signed by the market supervision and administration department of the State Council, or by other authorized relevant departments of the State Council.

Article 7 [Information Disclosure and Confidentiality Obligations] Certification, accreditation, inspection and testing institutions shall publicly disclose the basic norms, implementation rules, charging standards and other information of certification, accreditation, inspection and testing activities, and be responsible for the authenticity of the disclosed information.

Institutions and their personnel engaged in certification, accreditation, inspection and testing activities are obliged to ensure the confidentiality of state secrets and business secrets involved in their activities.

Article 8 The State encourages all sectors of the society to adopt certification, accreditation, inspection and testing results, so as to facilitate economic and trade activities, and to improve market operation efficiency.

The acceptance of certification, accreditation, inspection and testing results shall conform to the principle of fair competition.

Article 9 [Statistical investigation system] The market supervision and administration department under the State Council shall establish a statistical investigation system for certification, accreditation, inspection and testing services, and carry out statistical investigation according to law.

Article 10 [Resource Integration] The state encourages the establishment of a public service platform for inspection, testing and certification, and promotes the integration and sharing of inspection, testing and certification resources.

CHAPTER II

Article 11 [Certification System] The state shall establish a certification system with unified management, joint implementation, authoritative public trust, and universal mutual recognition.

According to the needs of socio-economic development, the market supervision and administration department of the State Council shall, in conjunction with the other relevant departments of the State Council, establish a certification system uniformly implemented by the state.

Where the national unified certification system has been established, no other similar conformity assessment items will be established. Social-oriented third-party technology evaluation activities should follow general norms and standards, and gradually switch to the certification system implemented by the state.

Article 12 [Certification Rules] Certification bodies shall engage in certification activities in accordance with the basic certification norms and certification rules.

The national unified certification system shall be formulated by the market supervision and administration department of the State Council, with basic certification norms and certification rules; the market supervision and administration department of the State Council shall jointly coordinate with other relevant departments of the State Council when the national unified certification system involves areas under the latter's responsibility.

For the certification activities independently carried out by certification bodies, the certification body can formulate its own certification rules and report them to the market supervision and administration department of the State Council for record.

The certification rules shall meet the requirements of basic certification standards, and shall not violate the provisions of relevant laws and administrative regulations, hinder social management, or damage social morality.

The market supervision and administration department of the State Council may organize the examination of the certification rules. If the examination involves areas under the responsibility of other relevant departments of the State Council, their opinions shall be sought.

Article 13 To obtain the qualification of certification bodies, the market supervision and administration department of the State Council shall approve and engage in certification activities within the approved scope. Without approval, no unit or individual may engage in certification activities. The market supervision and administration department of the State Council shall implement classified management on the qualification examination and approval of certification bodies, according to the level of risk of the certification activities.

The market supervision and administration department under the State Council shall publish the list of certification bodies that have obtained qualifications according to law.

Article 14 No unit or individual may forge, alter, fraudulently use, transfer, lease, buy, sell or use the approval documents of certification bodies after expiration, revocation or cancellation.

Article 15 To obtain the qualification of certification body, the following conditions shall be met:

- (1) Possession of legal person status;
- (2) Having a fixed office space and the necessary equipment and facilities;
- (3) Having a management system that meets the requirements of certification and accreditation;
- (4) The registered capital shall not be less than RMB 3 million;
- (5) Employs more than ten full-time certification staff in the corresponding field;
- (6) The institution, its legal representative and actual controller are not subject to credit punishment.

Institutions engaged in product certification should also have the technical capabilities, such as inspection and testing suitable, for engaging in related product certification activities.

Article 16 [Activities of overseas certification bodies in China] When overseas certification bodies set up representative offices within the territory of the People's Republic of China, they must go through the registration formalities with the market supervision and administration department according to law, before engaging in promotion activities related to the business scope of their affiliated institutions, but they are not allowed to engage in certification activities.

If overseas certification bodies directly appoint personnel to carry out certification and related activities in China, they shall abide by the laws and regulations of the People's Republic of China, and the certification results can only be used overseas.

If a certification body accepts the entrustment of an overseas organization to carry out certification and related activities according to the certification rules formulated by the overseas organization, it shall review and demonstrate the certification rules before carrying out certification and related activities, and submit the certification rules and supporting materials to the market supervision and administration department of the State Council.

Article 17 If an overseas enterprise applies for compulsory certification within the territory of the People's Republic of China, it shall appoint an authorized representative with legal personality within the territory of the People's Republic of China, and the authorized representative shall bear the corresponding legal responsibilities.

Article 18 Certification institutions shall not have an interest-based relationships with administrative organs.

Certification bodies shall not accept any financial assistance that may affect the objectivity and fairness of their certification activities; they shall not engage in any product development, marketing and other activities that may affect the objectivity and fairness of their certification activities.

Certification bodies shall not have assets or management interests with their certification clients.

Article 19 [Basic Requirements of Certification staff] The state establishes the vocational qualification system of certification personnel, which shall be implemented by qualified personnel of certification bodies.

The certification body shall establish and implement the management system for certification personnel, formulate the capability requirements and evaluation standards, and ensure that certification personnel continuously possess the corresponding professional capabilities.

Full-time certification personnel shall engage in certification activities in one certification body, and shall not work in more than two certification bodies at the same time.

Article 20 [Application for Certification] Any legal person, organization or individual may voluntarily entrust a legally established and qualified certification body to certify products, processes, services, management systems and personnel.

A certification body shall not refuse to provide certification services within its business scope on the grounds that the client has not taken part in previous consultation or training; nor can put forward requirements or restrictions unrelated to certification activities.

Article 21 [Requirements for submitting process records and information] When engaging in certification and related inspection and testing activities, certification bodies and related inspection and testing institutions shall complete the procedures stipulated in the basic certification standards and rules, and ensure the completeness, objectivity and authenticity of certification, inspection and testing; they shall not add, reduce or omit procedures.

Certification bodies and related inspection and testing institutions shall make a complete record of their certification, inspection and testing activities, and keep them on file.

Certification bodies and related inspection and testing institutions shall timely submit information on their certification, accreditation, inspection and testing activities to the market supervision and management department, in accordance with regulations, and be responsible for the authenticity of the information submitted.

Article 22 Certification bodies and their personnel shall make certification conclusions in a timely manner, and ensure that the certification conclusions are objective and true. The inspectors or testers shall affix their signatures to the inspection and testing results, and to appraisal conclusions, which shall then be officially signed by the responsible persons of the inspection and testing institutions.

The certification body and its certification personnel are responsible for the certification results.

Article 23 [Certification Conclusion] If the certification conclusions confirm that the products, processes, services, management systems, personnel, etc. meet the relevant certification requirements, the certification body shall then issue the certification certificate to the client, in a timely manner.

Certification bodies should strictly implement the basic certification standards and rules, and suspend, cancel, restore or change the certification scope indicated in the certification certificates, in a timely manner.

Where a certification body stops certification activities, or when its activities are revoked or cancelled, it shall take the initiative to inform the certified organization and publicize it to the public.

Article 24 The certification client shall not make false statements, forge, tamper with, conceal or destroy relevant documents, records or samples during the certification process.

The certification body shall not issue the certification certificate to its clients if it encounters one of the circumstances mentioned in the preceding paragraph; if the certification certificate and logo have already been obtained, they shall be revoked.

Article 25 [Requirements for the Legal Use of Certification Certificates and Marks] Certified organizations shall use certification certificates and marks within their validity period and the approved certification scope; they shall not use certification certificates and marks that have expired, been suspended, revoked or cancelled, or use certification certificates and marks for misleading publicity.

No unit or individual may forge, alter, falsely use, transfer, lease, buy or sell certification certificates and marks.

Article 26 [Management of Certification Marks] The marks of the certification system uniformly implemented by the state shall be prescribed by the market supervision and administration department of the State Council. If the responsibilities of the relevant departments of the State Council are involved, the opinions of the relevant departments of the State Council shall be sought.

Certification bodies can independently carry out certification, and can make their own certification marks. The styles, characters and names of certification marks made by certification bodies themselves shall not violate the provisions of laws and administrative regulations, shall not be identical or similar to the certification marks promoted by the state, hinder social management or harm social morality.

Article 27 A certification body shall monitor and supervise the products, processes, services, management systems, personnel, etc. that it has certified, according to relevant certification rules. If the products, processes, services, management systems, personnel, etc. certified do not meet the certification requirements continuously, the certification body shall suspend their use until the certification certificate is revoked, and disclose this information publicly.

The certified organization shall establish and improve its internal management system to ensure that products, processes, services and management systems continuously meet the certification requirements. In case of the following circumstances, the certified organization shall promptly notify the certification body:

- (1) Being subjected to major complaints, administrative penalties, judicial investigations or major accidents;
- (2) Significant changes have taken place in the information submitted during the application for the certification certificate, making it difficult to ensure continuous compliance with the certification requirements;
- (3) Other important situations potentially affecting the certification results have taken place.

Article 28 In order to protect national security, prevent fraud, protect human health, life and property, protect animal and plant life and health, and protect the environment, if a product is required by the state to be subject to compulsory certification, then it must obtain certification and accordingly marked before it can be delivered, sold, imported or used in other business activities.

The conditions and work requirements for obtaining and exempting from compulsory product certification shall be formulated separately by the market supervision and administration department of the State Council.

Article 29 [Implementation of compulsory certification] The state shall unify product catalogues, mandatory requirements, technical specifications standards, conformity assessment procedures and marks for products subject to compulsory certification.

The unified product catalogue shall be formulated and adjusted by the market supervision and administration department of the State Council in conjunction with the relevant departments of the State Council, released by the market supervision and administration department of the State Council, and implemented jointly with relevant parties.

Article 30 [Self-declaration] The market supervision and administration department of the State Council may allow some products listed in the catalogue of compulsory certification products (hereinafter referred to as the catalogue) to be certified through self-declaration means.

Self-declaration parties shall not make false statement in the self-declaration, nor forge, tamper with, conceal or destroy relevant documents, records or samples.

Self-declaration parties shall establish and improve their internal management system to ensure that the self-declared products continuously meet the mandatory certification requirements.

The product scope and implementation requirements for implementing self-declaration shall be formulated by the market supervision and administration department of the State Council. If areas under the responsibility of other relevant departments of the State Council are involved, their opinions shall be sought.

Article 31 Products listed in the catalogue and subject to compulsory certification by third-party organizations must be certified by the certification organization designated by the market supervision and administration department of the State Council.

Article 32 For the imported products listed in the catalogue, the market supervision and administration department of the State Council and the General Administration of Customs shall establish an online verification mechanism; while the customs shall carry out entry verification management, verify the compulsory product certification certificate or other supporting documents, and verify whether the certified goods are in conformity.

Article 33 Certification bodies engaged in compulsory certification activities and testing bodies related to certification (hereinafter referred to as designated bodies) shall be designated by the market supervision and administration department of the State Council. Without designation, no unit or individual may engage in compulsory certification and testing activities related to certification. The certification bodies designated by the market supervision and administration department of the State Council to engage in the certification activities of listed products shall ensure that at least two

institutions exist for each product field, and that these meet the conditions stipulated in relevant regulations.

The market supervision and administration department under the State Council shall specify the qualifications of designated institutions, and organize experts in related fields to form an expert review committee according to the principles of rational utilization of resources, fair competition, convenience and effectiveness; the committee shall review the institutions applying for designation, and if the responsibilities of relevant departments under the State Council are involved, consulting with them before making a final decision within the published time.

The directory and business scope of designated institutions shall be announced by the market supervision and administration department of the State Council.

Article 34 The designated institutions shall provide convenient and timely certification, inspection and testing services within their designated business scope, without delay, discrimination or difficulties for clients, and without seeking improper benefits.

The designated institution shall not transfer the designated business to other institutions.

Chapter III Inspection and Testing

Article 35 [Qualification of inspection and testing institutions] An inspection and testing institution that issues data and results with probative effect to the society shall have the basic conditions and technical capabilities stipulated by relevant laws and administrative regulations, and shall not engage in corresponding inspection and testing activities until it has been lawfully certified by market supervision and administration departments at the provincial level or above.

Other provisions of laws and administrative regulations on the qualification management of inspection and testing institutions shall prevail.

Article 36 An inspection and testing institution that issues evidential data or results to the society shall meet the following conditions:

- (1) Possession of legal person status, or be other organizations established according to law and able to bear corresponding legal responsibilities;
- (2) Having technical and management personnel suitable for conducting inspection and testing activities;
- (3) Possession of a fixed workplace and working environment that meet the inspection requirements;
- (4) Having the necessary equipment and facilities for inspection and testing;
- (5) Possession of a management system that effectively ensures the independent, fair, scientific, honest and compliant nature of its inspection and testing activities;
- (6) For special inspection and testing, special requirements stipulated by relevant laws and regulations shall also be met.

The specific procedures for being accredited as an inspection institution shall be formulated separately by the market supervision and administration department of the State Council.

Article 37 No unit or individual may forge, alter, falsely use, transfer, lease, buy, sell or use the qualification certificate of inspection and testing institutions that have expired, been suspended, revoked or cancelled.

Article 38 [Basic Code of Conduct for Inspection and Testing Institutions] When engaging in inspection and testing activities, inspection and testing institutions as well as their personnel shall abide by the provisions of laws, administrative regulations and rules, and carry out inspection and testing according to relevant standards, technical specifications or methods agreed with clients, data transmission and preservation, etc.

Article 39 When conducting inspection and testing activities, inspection and testing institutions as well as their personnel shall be independent from the stakeholders involved in the inspection and testing results or data issued by them, they shall be free from any factors that may interfere with their technical judgment, thus ensuring that the inspection and testing reports issued are true, objective, accurate and complete.

Article 40 [Inspection Report] The inspection report issued to the public shall be stamped with the official seal of the inspection and testing institution or the special seal for inspection and testing, signed by the authorized signatory person or the equivalent mark, and marked with the qualification identification mark.

No unit or individual may forge, alter, falsely use, transfer, lease, buy or sell inspection and test reports.

Article 41 An inspection and testing institution shall regularly review and improve its management system, to ensure that its basic conditions and technical capabilities continuously meet the qualification requirements of certification, and ensure the effective implementation of relevant quality management measures.

If the inspection institution no longer meets the qualification requirements and conditions, it shall not publicly issue conformity data or results.

Article 42 The market supervision and administration departments at or above the provincial level shall regularly organize and carry out verification of the capabilities of inspection and testing institutions, to ensure that these continuously meet the technical capability and qualification requirements.

Inspection and testing institutions are encouraged to participate in verification or comparison activities of inspection and testing institutions organized by relevant government departments, international organizations and professional technical evaluation institutions. Inspection and testing institutions in special fields are established and conform to good laboratory specifications.

Article 43 [Prohibited Activities of Inspection and Testing Institutions] Inspection and testing institutions shall not engage in the production, management, product supervision and sales, as well as supervision

activities related to their inspection and testing activities; they shall not recommend products tested by them to the public through advertisements or other forms.

Article 44 [Regulations on Emergency Inspection and Testing] In order to meet the needs of emergencies, the market supervision and management department may publish the list and other relevant information of inspection and testing institutions that meet the requirements to conduct emergency work, according to the qualification requirements of inspection and testing institutions, and allow relevant institutions to temporarily undertake emergency inspection and testing work.

Chapter IV Recognition

Article 45 [Accreditation system and accreditation bodies] The market supervision and administration department of the State Council shall establish and implement a unified national accreditation system in accordance with internationally accepted rules; the market supervision and administration department of the State Council shall formulate the accreditation catalogue and make it public; if areas under the responsibility of other relevant departments of the State Council are involved, the latter shall be involved in the formulation process by the market supervision and administration department of the State Council.

The accreditation system that accreditation bodies intend to promote to the society needs to be submitted to the market supervision and administration department of the State Council for approval, before it is publicly announced and implemented. The market supervision and administration department of the State Council shall conduct technical review on the feasibility, legality and effectiveness of the accreditation system developed by the accreditation bodies, and evaluate its operation.

The accreditation bodies determined by the market supervision and administration department of the State Council shall carry out accreditation activities independently. Except for the accreditation bodies determined by the market supervision and administration department of the State Council, no other unit may engage in accreditation activities, neither directly nor in disguised form; if other units engaged in accreditation activities directly or in disguised form, their accreditation results are invalid.

Article 46 [Effectiveness of accreditation] Certification bodies, inspection and testing bodies, validation and verification bodies, etc. can be accredited by accreditation bodies to prove that their capabilities meet the accreditation requirements continuously and stably.

Article 47 An accreditation body shall establish a quality system suitable for its accreditation scope, to ensure effective implementation and that the operation and capability of the accreditation body meet the requirements of laws, administrative regulations, rules, relevant standards and technical specifications.

Article 48 [Qualifications of accreditation assessors] Accreditation bodies may, according to the needs of accreditation, hire personnel engaged in accreditation and related activities. Personnel engaged in accreditation activities should be experts in related fields; they should also be familiar with relevant

laws, administrative regulations, accreditation rules and procedures, and have good moral character, professional knowledge and professional ability required for accreditation.

Article 49 If one accreditation body entrusts another party to complete the specific accreditation activity, it shall be responsible for the accreditation conclusions.

Article 50 When accepting an application for accreditation, an accreditation body shall not put forward any requirements or restrictions unrelated to the accreditation activities to the applicant.

Article 51 [Conclusion of accreditation] The accreditation body shall, within the time of publication, complete the review of certification bodies, inspection and testing bodies, validation and verification bodies and other institutions, in accordance with the regulations of the market supervision and administration department of the State Council and relevant standards and technical specifications; the accreditation body shall make a decision on whether to grant accreditation or not, making a complete record of the accreditation process, and keeping it on file. The accreditation body shall ensure that the accreditation is objective, fair, complete and effective, and be responsible for the accreditation conclusions.

The accreditation body shall issue accreditation certificates to the accredited institutions, and publish the list of accredited institutions.

Article 52 The accreditation certificate shall include the accreditation scope, standard, field and validity period.

Article 53 An accredited institution shall use accreditation certificates and marks within the scope of accreditation. If the accredited institution improperly uses the accreditation certificate and mark, the accreditation body shall suspend its use until the accreditation certificate is revoked, and disclose this information publicly.

No unit or individual may forge, alter, falsely use, transfer, lease, buy or sell accreditation certificates and marks.

Article 54 [Accreditation Follow-up Supervision] Accreditation institutions shall effectively follow up and supervise the accredited institutions, and periodically re-evaluate them to verify whether they continuously meet the accreditation requirements. If the accredited institution no longer meets the accreditation requirements, the accreditation body shall revoke the accreditation certificate, and disclose this information publicly.

If there is any change in the key personnel, principal responsible person, facilities, certification rules and other conditions related to the accreditation conditions of the accredited institution, it shall promptly inform the accreditation body.

Article 55 Accreditation bodies shall not accept any financial aid that may affect the objectivity and fairness of accreditation activities.

Article 56 Domestic certification bodies, inspection and testing bodies, validation and verification bodies, etc., which have been recognized by overseas certification bodies, shall promptly file a record with the market supervision and administration department under the State Council.

Chapter V: Supervisory Management

Article 57 [Regulation] The market supervision and administration department can supervise compliance with these regulations, by organizing peer review, soliciting opinions from relevant parties of certification and accreditation activities, conducting spot-checks on certification and accreditation activities and results, and requiring certification and accreditation bodies to report their business activities. If any violation of these regulations is found, it shall be investigated and dealt with in a timely manner. If the responsibilities of relevant departments are involved, they shall be informed in a timely manner.

Article 58 The market supervision and management department has the right to take the following measures according to the needs of supervision and management:

- (1) Collect information on the principal responsible persons and other relevant personnel of certification bodies, inspection and testing bodies, certified organizations, and certified product producers and operators, and adopt measures such as risk warning, early warning, direct interview, and other measures on relevant matters;
- (2) Inspect the premises where activities related to certification, inspection and testing are conducted;
- (3) Read and copy contracts, invoices, account books and other materials connected with the parties concerned;
- (4) Seizing up or detaining places, facilities and products that are suspected of producing, selling, importing or using uncertified products listed in the catalogue in other business activities; or suspected of engaging in certification, inspection and testing activities without approval, issuing false conclusions, or seriously misrepresenting the conclusions issued; or suspected of engaging in certification, inspection and testing activities of catalogue products without being designated to do so.

The principal responsible persons and relevant personnel of certification bodies, inspection and testing institutions, certified organizations, and certified product producers and operators shall actively cooperate, truthfully state the facts, provide relevant documents and materials completely within the prescribed time limit, and shall not refuse, obstruct or evade inspection, or falsely report, conceal or destroy relevant evidence materials.

Article 59 [Regulatory Measures for Accreditation Activities] Accreditation agencies shall establish a system of daily information reporting and extraordinary reporting, regularly submitting reports to the market supervision and administration department of the State Council, and be responsible for the authenticity of the reports.

The market supervision and management department evaluates the implementation of the accreditation system, and supervises and manages the accreditation bodies, accreditation activities and accreditation results. According to the needs of supervision and management, it has the right to adopt the following measures:

- (1) Collect information on the principal responsible person of the authorized institution, and give risk warning, early warning, interview, warning and other measures on relevant matters;
- (2) Implement of on-site supervision and assessment of accreditation bodies;
- (3) Supervise the accreditation activities carried out by accreditation bodies;
- (4) Inspect and spot-check of recognition results;
- (5) Obtain accreditation activities and accreditation management;
- (6) Investigate and handle complaints about accreditation bodies, accreditation activities and accreditation results;
- (7) Use third-party evaluation mechanisms to evaluate the operations of accreditation bodies.

Article 60 [Illegal Reporting] Any unit or individual shall have the right to report to the market supervision and administration department any illegal activities of certification, accreditation, inspection and detection. The market supervision and management department shall promptly investigate and handle such reports, and keep confidential the informants.

Article 61 The market supervision and management department shall establish and improve the mechanism for traceability, risk monitoring and early warning of the whole process of certification, accreditation, inspection and testing; it shall establish a platform for sharing big data information, implement inter-departmental joint supervision, and disclose certification, accreditation, inspection and testing information to the public in a timely manner.

Article 62 [Credit Supervision Mechanism] The market supervision and management department shall strengthen the credit supervision of institutions and their personnel engaged in certification, accreditation, inspection and testing activities, implement the system of open credit commitment and credit information disclosure, and adopt differentiated supervision measures according to the credit rating. Institutions and their personnel who commit serious violations of the law and trust shall be prohibited from operating in the industry according to law.

Article 63 [Industry Autonomy] Industry organizations in the field of certification, accreditation, inspection and testing shall strengthen industry self-discipline and promote the nurturing of industry integrity.

Chapter VI Legal Liabilities

Article 64 Any unit or individual engaging in certification, inspection and testing activities without approval shall be ordered to stop the related activities, recall the certificates and reports that have been issued, be fined between 500,000 yuan and 1 million yuan, and be included in the list of dishonesty. Illegal gains, if any, shall be confiscated. If a crime is constituted, criminal responsibility shall be investigated according to law.

Those engaging in certification and inspection activities by forging, altering, fraudulently using, transferring, leasing, buying or selling the certificates of approval or qualification of certification bodies and inspection and testing institutions, or who engage in certification and inspection and testing activities by using certificates that have expired, been revoked or cancelled, shall be punished according to the provisions of the previous paragraph.

Article 65 Whoever forges, alters, fraudulently uses, transfers, leases, buys or sells the approval or qualification documents of certification bodies and inspection and testing bodies shall be ordered to stop related activities, be fined between 100,000 yuan and 300,000 yuan, and be included in the list of dishonesty. Illegal gains, if any, shall be confiscated. If a crime is constituted, criminal responsibility shall be investigated according to law.

Article 66 If a certification body fails to file for record its own certification rules to the market supervision and administration department of the State Council, it shall be ordered to make corrections within a time limit, and shall be given a warning.

If the certification rules formulated by the certification bodies themselves do not meet the requirements after being reviewed by the market supervision and management department, the certification body shall be ordered to recall the certification rules and the relevant certificates, and shall be given a warning; if the circumstances are serious, the certification body shall be ordered to suspend business for rectification until the approval documents are revoked; if the certification rules present risks endangering national security and public interests, the market supervision and administration department of the State Council can directly intervene by issuing risk warnings and ordering corrections within a time limit.

Article 67 Where an overseas certification institution establishes a representative office within the territory of the People's Republic of China without registration, it shall be ordered to stop its activities and be fined between 50,000 yuan and 200,000 yuan.

The registered representative offices of overseas certification bodies engaged in certification activities within the territory of the People's Republic of China shall be ordered to stop relevant activities, recall the certificates already issued, be imposed a fine of 500,000 yuan but not more than 1 million yuan, and shall be included in the list of dishonesty. Illegal gains, if any, shall be confiscated. If the circumstances are serious, the registration certificate shall be revoked. If a crime is constituted, criminal responsibility shall be investigated according to law.

Overseas institutions that directly appoint personnel to carry out certification and related activities in China, and those who violate the provisions of these Regulations shall be given a warning, disclosed to the public, and notified to international organizations, embassies and consulates abroad and other relevant parties.

Article 68 If a certification body accepts financial assistance that may affect the objectivity and fairness of certification activities, or engages in activities such as product development and marketing that may affect the objectivity and fairness of certification activities, or has assets and management interests with a client, it shall be ordered to suspend business for rectification. If the circumstances are serious, the approval documents shall be revoked and information disclosed; illegal gains, if any, shall be confiscated; if a crime is constituted, criminal responsibility shall be investigated according to law.

Article 69 In any of the following circumstances, a certification institution shall be ordered to make corrections within a time limit and be fined between 100,000 yuan and 500,000 yuan; illegal gains, if any, shall be confiscated; if the circumstances are serious, a certification institution shall be ordered to suspend business for rectification until the approval documents are revoked and included in the list of dishonesty:

- (1) Engaging in certification activities beyond the approved scope;
- (2) Adding, reducing or omitting the procedures stipulated in the basic certification standards and certification rules;
- (3) Failing to follow up and supervise the products, processes, services, management systems, personnel, etc. certified by them according to the relevant certification rules; or failing to suspend the use or revoke the certification certificate in a timely manner after finding that the products, processes, services, management systems, personnel, etc. certified by them cannot continuously meet the certification requirements;
- (4) employing personnel who do not have relevant professional knowledge and professional ability to carry out certification activities;
- (5) Certification bodies connive at or instigate their certification personnel to violate laws and regulations, or falsify their information records.

If inspection and testing institutions increase, decrease or omit the procedures stipulated in the basic certification standards and certification rules, they shall be punished according to the provisions of the previous paragraph.

Article 70 If a certification institution presents one of the following circumstances, it shall be ordered to make corrections within a time limit; if the time limit is exceeded, a fine between 50,000 yuan and 200,000 yuan will be imposed:

- (1) Refusing to provide certification services within its business scope, on the grounds that the client has not participated in certification consultation or training activities, or putting forward requirements or restrictions unrelated to certification activities to the client;
- (2) Failing to inform the certified organizations on its own initiative and publicly disclose information after stopping the certification activities or being revoked or cancelled its certification qualification;
- (3) The style, characters and names of self-made certification marks are the same as or similar to the certification marks promoted by the state, or hinder social management or damage social morality;
- (4) Not disclosing the basic certification standards, rules, charging standards and other information;
- (5) Failing to make a true and complete record of the certification process and keep it on file;
- (6) Failing to issue the certification certificate to its clients in time.

If the inspection and testing institution related to certification fails to make a complete record of the inspection and testing process related to certification, and keeps it on file, it shall be punished according to the provisions of the previous paragraph.

Article 71 If an inspection and testing institution presents one of the following circumstances, it shall be ordered to make corrections within a time limit; if the time limit is exceeded, a fine between 50,000 yuan and 200,000 yuan will be imposed:

- (1) Failing to make public its charging standards;
- (2) Failing to make a true and complete record of the inspection process, archiving and retention;
- (3) Failing to carry out inspection and testing according to standards and technical specifications, which may affect the inspection and testing report;
- (4) Failing to take part in the competency verification as required by the market supervision and administration department, or failing to pass the competency verification results.

During the rectification period, the inspection and testing institutions shall not issue inspection and testing data and results to the public.

Article 72 [Issuing false or seriously inaccurate conclusions] If certification bodies or inspection and testing institutions issue false certification conclusions or inspection and testing reports, or if the certification conclusions inspection and testing reports issued by them are significantly inaccurate, they shall be fined five to ten times the certification fees or inspection and testing fees. If the cost is less than 10,000 yuan, a fine between 50,000 yuan and 100,000 yuan will be imposed, and the certification body or inspection and testing institution will be included in the list of dishonesty. Illegal gains, if any, shall be confiscated. If the circumstances are serious, the approval document or qualification certificate shall be revoked and relevant information publicly disclosed. If damage is caused to consumers, certification, inspection and testing bodies as well as producers and sellers shall bear joint and several liabilities. The main person in charge and relevant responsible personnel shall be fined between 50,000 yuan and

100,000 yuan, shall be prohibited from engaging in further certification, inspection and testing activities for five years, and shall be included in the list of dishonesty. If a crime is constituted, criminal responsibility shall be investigated according to law.

If the designated institution commits any illegal act specified in the preceding paragraph, the designation shall be revoked at the same time.

Article 73 If a full-time certification staff engaging in certification activities does not work in a certification institution, or works in two or more certification institutions at the same time, they shall be ordered to make corrections within a time limit, and be punished by restricting their employment for more than six months and less than two years.

Article 74 A certification client who makes false statements, forges, falsifies, conceals or destroys relevant documents, records or samples during the certification process, shall be fined between 50,000 yuan and 100,000 yuan. Those who apply for compulsory certification shall be fined between 100,000 yuan and 500,000 yuan. If a crime is constituted, criminal responsibility shall be investigated according to law.

Article 75 If the self-declaration party makes false statements in self-declaration, forges, falsifies, conceals or destroys relevant documents or records, it shall be ordered to revoke the self-declaration documents, be imposed a fine between 100,000 yuan and 500,000 yuan, be included in the list of dishonesty, and be forbidden from making self-declaration again within one year. If a crime is constituted, criminal responsibility shall be investigated according to law.

If the self-declared products do not meet the relevant requirements, the self-declared documents shall be ordered to be revoked and handled in accordance with the Product Quality Law of the People's Republic of China, and other laws.

Article 76 [False Propaganda] If a certified organization uses certification certificates and marks to mislead propaganda, the certification body must revoke the certification certificate and impose a fine between 10,000 yuan and 50,000 yuan; illegal gains, if any, shall be confiscated. If damage is caused to consumers, the corresponding civil liability should be borne for compensation. Those who constitute false propaganda shall be dealt with according to the Anti-Unfair Competition Law of the People's Republic of China, as well as other relevant laws and regulations.

Article 77 If a certified organization uses certificates and marks beyond the scope of certification, or uses certificates and marks that have expired, been suspended, revoked or cancelled, or forges, alters, fraudulently uses, transfers, leases, buys or sells certificates or marks, it shall be ordered to make corrections within a time limit and be fined between 50,000 yuan and 100,000 yuan; illegal gains, if any, shall be confiscated. If the circumstances are serious, the business license shall be revoked and the organization included in the list of dishonesty. If a crime is constituted, criminal responsibility shall be investigated according to law.

Units and individuals without certification that forge, alter, fraudulently use, transfer, lease, buy or sell certification certificates or marks, shall be ordered to make corrections within a time limit, and be fined between 50,000 yuan and 100,000 yuan; illegal gains, if any, shall be confiscated; if the circumstances are serious, they shall be included in the list of dishonesty. If a crime is constituted, criminal responsibility shall be investigated according to law.

Any unit or individual that forges or alters the inspection report shall be punished according to the provisions of the preceding paragraph.

Whoever forges or fraudulently uses certification certificates or marks to illegally produce and sell products, shall be dealt with in accordance with the Product Quality Law of the People's Republic of China, as well as other laws and regulations.

Article 78 [Violation of tracking and supervision obligation] If a certification body fails to track and supervise its certified products, processes, services, management systems, personnel, etc. according to the relevant certification rules, or fails to suspend the use, revoke the certification certificate, and request not to use the certification mark, in a timely manner after finding that the subjects certified by them cannot continuously meet the certification requirements, thus causing losses to consumers, it shall be jointly and severally liable with the producers and sellers.

Article 79 [Violation of information notification obligation] If the certified organization fails to notify the certification body of information in accordance with the provisions of these regulations, thus affecting the certification results, it shall be ordered to make corrections within a time limit; if the circumstances are serious, a fine between 10,000 yuan and 30,000 yuan shall be imposed. If it causes damage to consumers, it shall bear corresponding civil liability for compensation.

Article 80 [Engaging in compulsory certification activities without designation] If certification bodies and inspection and testing institutions engage in certification, inspection and testing activities of listed products without designation, they shall be ordered to make corrections within a time limit, be fined between 100,000 yuan and 500,000 yuan, and be included in the list of dishonesty. Illegal gains, if any, shall be confiscated.

If the certification body engages in the certification activities of listed products without authorization, the approval documents shall be revoked.

Article 81 If a designated institution engages in certification, inspection and testing activities of listed products beyond its designated business scope, it shall be ordered to make corrections within a time limit and be fined between 100,000 yuan and 500,000 yuan; illegal gains, if any, shall be confiscated. If the circumstances are serious, the institution will be revoked its designation and it will be included in the list of dishonesty.

If the designated institution transfers its designated business, it shall be punished according to the provisions of the preceding paragraph.

Article 82 If certification bodies, inspection and testing bodies, validation and verification bodies have obtained the approval of overseas accreditation bodies but failed to file with the market supervision and administration department of the State Council, they shall be ordered to make corrections within a time limit, given a warning and made public.

Article 83 If the products listed in the catalogue exits the factory, or if it is sold, imported or used in other business activities without having obtained certification or other relevant documents, they shall be ordered to make corrections within a time limit, be fined five times to ten times the value of the products, and be included in the list of dishonesty. Illegal gains, if any, shall be confiscated.

Article 84 In any of the following circumstances, an accreditation institution shall be ordered to make corrections within a time limit; if the circumstances are serious, the main person in charge and the responsible personnel shall be punished according to law:

- (1) Accrediting institutions that do not meet the accreditation requirements;
- (2) Failing to revoke and announce in a timely manner cases of accredited organizations that do not continuously meet the relevant accreditation requirements;
- (3) Accepting financial assistance that may affect the objectivity and fairness of accreditation activities.

The principal person-in-charge and responsible personnel of the sanctioned institution shall not further engage in accreditation activities for five years after being sanctioned.

Article 85 In any of the following circumstances, an accreditation institution shall be ordered to make corrections within a time limit, and the principal responsible person and the responsible personnel shall be punished according to law:

- (1) Accepting from a client the application for accreditation while putting forward requirements or restrictions unrelated to accreditation activities;
- (2) Failing to complete the accreditation activities within the published time, or failing to disclose the accreditation conditions, procedures, fees and other information;
- (3) Failing to suspend the use and revoke the accreditation certificate, and disclose publicly and in a timely manner, after finding out that one accredited organization has improperly used the accreditation certificate and mark;
- (4) Failing to make a complete record of the accreditation process and keep it on file.

Article 86 [Credit Disciplinary Measures] The market supervision and management department may adopt the following management measures, according to law, to handle institutions and individuals listed in the list of dishonesty:

- (1) Not accepting their application for the establishment of a new certification, accreditation, inspection and testing institution;
- (2) Not accepting application for the extension or expansion of their qualification;

(3) Not allowing the application of facilitating measures based on good faith, such as informing commitment;

(4) Not granting commendations and rewards given by the market supervision and administration department;

(5) Other circumstances stipulated by laws and administrative regulations.

For those who violate the provisions of the first paragraph of Article 69, Article 72, Article 77, Article 81 and Article 83 of these Regulations, the persons directly in charge can be banned from operating the industry for a period of one to three years; if serious harmful consequences are caused, the legal representative and actual controller of the directly responsible personnel and institutions can be banned for life.

Institutions and personnel that have been listed on the list of dishonesty for one year, can apply to the market supervision and management department for being removed from the list by offering credit rectification actions. Specific actions for credit rectification shall be formulated separately by the market supervision and administration department of the State Council.

Article 87 If the market supervision and management department, as well as its staff, abuse their powers, engage in malpractices for personal gains or neglect their duties, and commit any of the following acts, the directly responsible person in charge and other directly responsible personnel shall be given administrative sanctions; if a crime is constituted, criminal responsibility shall be investigated according to law:

(1) Granting approval, designation or qualification not in accordance with the conditions and procedures stipulated in these regulations;

(2) Failing to revoke the approval documents or qualification certificates after finding out that certification bodies, inspection and testing institutions no longer meet the approval conditions or qualification conditions stipulated in these regulations;

(3) Failing to revoke the designation of certification bodies and inspection and testing institutions after finding out that they no longer meet the specified conditions stipulated in these regulations;

(4) Failing to investigate certification bodies and inspection and testing institutions after finding out that they have issued false or seriously inaccurate certification conclusions or inspection and testing reports;

(5) Failing to investigate after finding out other illegal acts stipulated in these regulations.

Article 88 The administrative penalties prescribed in these Regulations shall be implemented by the market supervision and administration department of the State Council, or by local market supervision and administration departments at various levels according to their respective duties. Unless otherwise provided by laws and other administrative regulations, the provisions of laws and other administrative regulations shall prevail.

Chapter VII Supplementary Provisions

Article 89 Where laws and other administrative regulations provide otherwise for certification, accreditation, inspection and testing in special fields, those provisions shall prevail.

Article 90 The fees for certification, accreditation, inspection and testing shall comply with the relevant national pricing laws and administrative regulations.

Article 91 The law shall become effective as of XXXX.

22 November 2021

State Administration for Market Regulation

Introduction of SESEC Project



The Seconded European Standardization Expert in China (SESEC) is a visibility project co-financed by the European Commission (EC), the European Free Trade Association (EFTA) secretariat and the three European Standardization Organizations (CEN, CENELEC and ETSI). Since 2006, there has been three SESEC projects in China, SESEC I (2006-2009), SESEC II (2009- 2012) and SESEC III (2014-2017). In April 2018, SESEC IV was officially launched in Beijing, China. Dr. Betty XU was nominated as the SESEC expert and will spend the next 36 months on promoting EU-China standardization information exchange and EU-China standardization cooperation.

The SESEC project supports the strategic objectives of the European Union, EFTA and the European Standardization Organizations (ESOs). The purpose of SESEC project is to:

- **Promote European and international standards in China;**

- **Improve contacts with different levels of the Chinese administration, industry and standardization bodies;**
- **Improve the visibility and understanding of the European Standardization System (ESS) in China;**
- **Gather regulatory and standardization intelligence.**

The following areas have been identified as sectorial project priorities by the SESEC project partners: Internet of Things (IoT) & Machine-to-Machine(M2M) communication, communication networks & services, cybersecurity & digital identity, Smart Cities (including transport, power grids & metering), electrical & electronic products, general product safety, medical devices, cosmetics, energy management & environmental protection (including eco-design & labelling, as well as environmental performance of buildings).