

(THIS TRANSLATION IS UNOFFICIAL)

Regulation Of Commercial Encryption Codes

(China State Council Directive No. 273)

Section 1. General Rules

Article 1: These regulations are established in order to reinforce the regulation of Commercial Encryption Codes (CECs), to protect information safety, to safeguard the legal interests of citizens and organizations, and to ensure the safety and interests of the nation.

Article 2: CEC protection refers to the products and technologies used in the encoding protection or security certification of information that is not part of state Encryption.

Article 3: Commercial encoding technologies are a part of national classified information. The central government has exclusive regulatory rights over the scientific research, production, sales and actual use of commercial encoding products.

Article 4: The National Commission on Encryption Code Regulations (NCECR) and its offices are the chief national regulators of CECs. Encryption code regulatory agencies located in provinces, autonomous regions and municipalities are commissioned by the NCECR to handle work related to CECs.

Section 2. The Regulation Of Scientific Research And Production

Article 5: Responsibility for CEC research belongs to the NCECR. Scientific research work units specifically given CEC research responsibilities must have related technological capabilities and equipment, be able to utilize advanced encoding theories and technologies, and be able to utilize CEC calculations that are highly secretive and combat intrusions.

Article 6: Achievements in CEC research are inspected and certified by NCECR experts according to CEC technological standards and norms.

Article 7: CEC protection products are made by work units appointed by the NCECR. No work units or individuals may produce CEC products without authorization. Work units assigned to produce CEC products must have the technology capability necessary to produce those products, equipment, and manufacturing processes and quality assurance systems that will assure high quality products.

Article 8: Work units assigned to make CEC products must submit product types and model numbers to the NCECR for approval. Furthermore, they are forbidden to exceed the approved scope of CEC products.

Article 9: CEC products must pass the quality inspections of inspection agencies appointed by the NCECR.

Section 3. The Regulation Of Sales

Article 10: CEC products are sold by work units approved by the NCECR. Without proper authorization, no work units or individuals may sell CEC products.

Article 11: Those intending to sell CEC products must apply to the NCECR and meet the following qualifications: 1. They must be staffed with personnel who are knowledgeable in CEC product information and capable of providing post-sales services; 2. They must be able to provide full sales services and be equipped with safety regulations; 3. They must also have the rights of an independent juridical unit. Work units that are inspected and approved will be given the CEC Sales Certificate by the NCECR.

Article 12: CEC product sellers must truthfully record the actual CEC product user's name, address, organization ID number (or resident ID number) and the use to which each CEC product is put. Sellers must also file the above information with the NCECR.

Article 13: Imported CEC products, imported equipment containing CEC technologies and exported CEC products must be approved by the NCECR. No work units or individuals may sell foreign CEC products.

Section 4. The Regulation Of Usage

Article 14: Only NCECR-approved CEC products may be used by any work units or individuals. No work units or individuals may use self-made CEC products or CEC products made overseas.

Article 15: Foreign organizations or individuals using CEC products or equipment containing CEC technologies within the borders of the PRC must report these products and their usage to the NCECR and obtain approval. However, foreign consular and representative organizations are excluded from this provision.

Article 16: Users of CEC products cannot transfer the ownership of CEC products to others. Technical problems are remedied only by work units appointed by the NCECR. Discarded or destroyed CEC products have to be put on file at the NCECR.

Section 5. The Regulation Of Security And Secrecy Maintenance

Article 17: The scientific research and production of CEC products should be conducted under conditions that meet the needs of maintaining security and secrecy. The sales, transportation and safekeeping of CEC products should be completed with safety procedures. Work units and personnel responsible for the scientific research, production and sales of CEC products must bear the responsibility of confidentiality with regard to the CEC technologies they come in contact with or control.

Article 18: The public promotion and/or exhibition of CEC products must be reported to and approved by the NCECR in advance.

Article 19: No work units or individuals may illegally attack CECs, nor are they allowed to use CECs to endanger national security and interests, to jeopardize public safety or to participate in other criminal activities.

Section 6. Penalties

Article 20: Those who commit one or more of the following offenses will have their CEC products confiscated by the NCECR. Industry and commerce administrative agencies as well as the customs office may assist in the confiscation depending on the specific situation. Illegal gains will be confiscated. In the case of serious offenses, a fine that is 100% to 300% of the monetary value of the illegal gains will be imposed. 1. Unauthorized production of CEC products or production beyond the approved scope; 2. Unauthorized sales of CEC products; 3. Unauthorized import and/or export of CEC products and equipment containing CEC technologies; sales of foreign CEC products. Authorized dealers in CEC products who fail to follow regulations regarding the selling of CEC products will receive warnings from NCECR and industry and commerce administrative agencies and be ordered to correct their mistakes.

Article 21: NCECR, together with public and national security authorities, will issue warnings or will order the correction of any of the following behaviors: 1. Violating safety or secrecy regulations during the process of research and production of commercial encoding products; 2. Failure to take safety measures when selling, transporting or storing commercial encoding products; 3. Advertising or displaying commercial encoding products in public without prior approval; 4. Transferring commercial encoding products without approval, or having them repaired by repair shops not designated by NCECR. NCECR, together with public and national security authorities, will confiscate commercial encoding products developed by those not designated by NCECR or by foreign manufacturers, or repaired by repair shops not designated by NCECR if these are serious cases.

Article 22: If research, production or sales units for commercial encoding products perform such behaviors as described in Article 20 and Clauses 1, 2 and 3 of Article 21, with serious consequences, NCECR will revoke their status as research or production units, or revoke their sales licenses.

Article 23: Those who leak CEC technical Encryption, illegally attack CECs and/or use CECs to participate in activities that endanger national security and interests, in the case of serious and criminal offenses, will be prosecuted. In the case of less serious, non-criminal offenses, the NCECR will confiscate the offender's CEC products via either national security organs or national secrecy maintenance departments, depending on the specific situation. Offenders that have endangered national security will be arrested by national security organs, and offenders who work for the government will be penalized administratively accordingly.

Article 24: Foreign organizations or individuals who use CEC products or equipment containing CEC technologies without proper authorization will be given a warning from the NCECR and public security organs and ordered to make amends. Their CEC products or equipment may also be confiscated.

Article 25: NCECR personnel who abuse their powers and neglect their duties will be prosecuted in the case of serious offenses or penalized administratively when the offense is not considered criminal.

Section 7. Appended Information

Article 26: Additional regulations will be established by the NCECR according to these provisions.

Article 27: These provisions will go into effect on the day of the promulgation.