

环境保护法律热点问题

环保专题系列（十二）- 疫情防控下，企业复工复产需特别注意哪些环境和安全生产合规手续

前言

新型冠状病毒感染肺炎（下称“**新冠肺炎**”）疫情爆发以来，为确保抗疫物资供应，促进企业复工复产，国家及地方对于一些企业生产经营中所需的包括环境及安全生产相关在内的一些资质/许可证或政府手续采取了临时豁免办理、放宽时限等措施。企业应及时了解监管要求，在复工复产后及时完成法定程序，防范合规风险。

一、疫情期间被简化、临时豁免或获准暂缓办理的政府手续

新冠肺炎疫情期间，中央及各地纷纷出台规定，简化、临时豁免或暂缓环境及安全生产方面的一些资质/许可证或政府手续，我们将注意到的一些重点事项归纳如下（企业需结合自身经营和资质/证照情况审查有无其他注意事项）：

环境：生态环境部于2020年3月3日发布了《环评审批正面清单》，豁免部分建设项目的环评手续，包括对疫情防控急需的医疗卫生、物资生产及研究实验建设项目的临时性新、改、扩建或转产，以及对关系民生且纳入《固定污染源排污许可分类管理名录（2019年版）》实施排污许可登记管理的相关行业，以及社会事业与服务业，不涉及有毒、有害及危险品的仓储、物流配送业等不再要求办理环境影响评价登记表。同时，清单也将环境影响总

体可控、受疫情影响较大、就业密集型等民生相关的部分行业（包括工程建设、社会事业与服务业、制造业、畜牧业、交通运输业等）纳入环评告知承诺制审批改革试点（对环评文件不再进行实质审核）。该清单实行时间原则上截至2020年9月底，根据形势需要可适当延长。

安全生产：应急管理部于2020年2月26日出台的《八项措施统筹推进企业安全防范和复工复产的通知》（简称“《**八项措施**》”）中，强调对于新建、改扩建、转产项目等需要办理安全生产“三同时”手续的，优化报批审核流程，实施网上快速办理，疫情防控结束后再进行现场核验；因疫情原因未能办理相关证书（包括企业安全生产许可证、安全评价检测检验机构资质证书和企业主要负责人、安全管理人员、特种作业人员安全证书等）延期手续的，企业安全生产相关的到期证件将自动顺延至疫情防控结束。实践中，各地对于《八项措施》的规定又作出了不同程度的细化，有的亦允许危险化学品登记证和安全生产标准化证书的有效期顺延至疫情防控结束。

职业健康：国家卫生健康委办公厅于2020年3月6日颁布的《关于加强企业复工复产期间疫情防控指导工作的通知》中指出在疫情高风险和中风险地区，企业可延期开展职业健康检查。但在疫情高、中风险地区转为低风险地区后，卫生健康行政部门

要统筹协调职业健康检查机构合理有序安排企业员工的职业健康检查。一些地区也规定对试运行的建设项目，在疫情高、中风险地区尽量推迟必须现场进行的职业病危害控制效果评价评审和职业病防护设施验收，待转为低风险地区后开展。

二、企业应及时完成被临时豁免或获准暂缓办理的政府手续

上述简化、临时豁免或暂缓措施仅限于疫情防控阶段或相关文件明确的一段时间，疫情解除后，企业若继续相关生产经营行为的，则应及时补办相关手续。一些地方监管部门已经出台文件要求企业在疫情结束后一定期限内补办环评相关手续。企业应关注所在省和直辖市的疫情状态，生产经营辖区内安监、环保及卫生健康部门的监管动态并主动与相关部门沟通，及时了解补办信息及具体时限要求等。

尽管目前地方监管部门出台的规定中，尚未明确列出企业在疫情结束后未及时补办前述手续时需要承担的法律后果，但需要注意的是，环评、安监、环保及卫生健康相关资质或手续的及时补办是确保企业合规经营的重要因素，若未及时补办，可

能会被视为在无相关资质或批准的情况下开展无证经营，从而需要承担相应的法律责任。例如，若企业在疫情结束后，未及时为已到期的安全生产许可证办理延期的，可能面临被责令停止生产，没收违法所得，并处 50 万元以下的罚款的风险，如果造成重大事故或者其他严重后果，构成犯罪（例如重大责任事故罪）的，可能还会被追究刑事责任。

三、结语建议

新冠肺炎疫情的发生导致一些企业未能按照以往的程序办理或完成环境和安全生产方面的某些资质/许可证或法定程序，该等企业应当注意相关补办和延期方面的合规要求，如有必要，与当地监管部门（包括环保部门、安监部门和卫生健康部门等）进行及时的沟通，确保企业复工复产时合规运营。

疫情犹在，但君合依旧在您身边。如您有任何问题，或需要君合协助处理政府相关手续或希望了解相关要求的，欢迎邮件联系我们：
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Environmental Protection

Environmental Protection Series (XII) – the environmental and safety production compliance procedures enterprises need to pay special attention to for the resumption of work and production during the epidemic.

Foreword

Since the start of the coronavirus epidemic (“COVID-19”), central and local governments have undertaken various and necessary measures for the resumption of business operations. These measures have included the temporary exemption or extension of the valid terms for certain qualifications and licenses as well as the governmental formalities necessary for the resumption of production and operations of certain enterprises. These measures have been undertaken to ensure the supply of anti-epidemic materials and to promote the resumption of work and production, including those in respect to environmental protection and safety production. Enterprises should promptly educate themselves about these regulatory requirements, and complete the statutory procedures upon the resumption of work and manufacturing in order to avoid any compliance risk.

I. Government Formalities Have Been Simplified, Temporarily Exempted or Suspended during the Epidemic

During COVID-19, the central government and local governments have issued regulations to simplify, temporarily exempt or suspend some qualifications/licenses or governmental procedures in respect to environmental protection and safety. We have noticed some key issues as follows (please consider whether an enterprise will have any other matters to note, based on its operations and unique qualifications/license status):

Environment: on March 3, 2020, the Ministry of Ecological Environment issued the "Positive List of Environmental Impact Assessment Approval" (the “List”), exempting some construction projects from environmental impact assessment procedures. These included temporary constructions, renovations, expansion or conversion of medical, sanitary and materials production as well as experimental research projects necessary for the prevention and control of COVID-19. It also included industries that are crucial to people’s livelihoods and are covered in the "Catalogue

of the Classified Management of Pollution Discharge Permits from Fixed Pollution Sources (2019 Edition)". This information is relevant to pollution discharge permit registration management, as well as social undertakings and service industries, storage, logistics and distribution industries that do not involve toxins, or hazardous and dangerous goods. Some industries relating to people's livelihoods (including project construction, social undertakings and services, manufacturing, animal husbandry, transport, etc.), and whose environmental impact is generally controllable and has been hugely affected by the epidemic, were also included in this list for the pilot reform of the approval of the notification and commitment system for environmental impact assessment (no substantive review of the environmental impact assessment documents is required). This list is valid until the end of September 2020, and may be extended as the situation requires.

Work Safety: the Circular on Taking Eight Measures to Promote Enterprises' Safety Prevention and the Resumption of Work and Production (the "Eight Measures") was issued by the Ministry of Emergency Management on February 26, 2020. It highlights that, where formalities for the "Three Simultaneities" of work safety are required for a new project under construction, reconstruction or expansion, or a change in production, the examination and approval process shall be optimized and the formalities for applying for approval shall be handled quickly online. On-site inspections should be conducted after the end of the time frame of the epidemic's prevention and control. If the formalities for the extension of the relevant certificates (including an enterprise's work safety license, qualification certificates for safety evaluation, testing and inspection agencies, and safety certificates of the enterprise's major responsible persons, safety management and special operation

personnel) fail to be submitted due to the epidemic, the expiration date of the work safety certificate of the enterprise shall be automatically extended to the end of the epidemic's prevention and control. In practice, various regions have detailed the provisions of the Eight Measures to different extents, and some regions have also allowed for the extension of the valid period of their hazardous chemical registration certificates and work safety standardization certificates until the end of the epidemic's prevention and control.

Occupational Health: the Circular on Strengthening the Guidance on the Prevention and Control of the Epidemic Situation during Enterprises' Resumption of Work and Production issued by the General Office of the National Health Commission on March 6, 2020 points out that enterprises in areas with a medium or high epidemic risk may postpone their occupational health examination. However, after regions with a high or medium risk of epidemics are transformed to regions with a low risk, the health administrative departments shall make an overall plan and coordinate with the occupational health examination institutions to arrange the occupational health examination for employees in a reasonable and orderly manner. Some authorities of certain regions also require that for construction projects under commissioning, the assessment and review of occupational disease hazard control effects and the acceptance of protective devices for occupational diseases that must be conducted on-site shall be postponed for the greatest extent to the time when high and medium-risk areas turn into low-risk areas.

II. Enterprises shall promptly complete government formalities which have been temporarily exempted or deferred

The aforesaid simplification, temporary

exemption or suspension measures in respect of qualifications and licenses applies only to the phase of the epidemic's prevention and control or the period specified in the relevant documents. After the end of the epidemic, if an enterprise continues their relevant production and business activities, it shall complete the relevant formalities in due time. Some local authorities have issued documents requiring enterprises to complete environmental assessment procedures within a certain period after the end of the epidemic. Enterprises shall pay attention to the epidemic's situation in the provinces and municipalities directly under the control of central government where they are located and take all initiatives to communicate with the corresponding safety supervision, environmental protection and health departments within the areas that they are in charge of and educate themselves about the requirements for making up the formalities and the specific time limits.

Although the regulations issued by the local regulatory authorities do not specify the legal consequences to an enterprise which fails to complete the aforementioned procedures in a timely manner after the end of the epidemic, it should be noted that the prompt completion of the relevant qualifications or procedures related to environmental assessment, work safety supervision, environmental protection and health is an important factor in ensuring the compliance of business operations. If an enterprise fails to complete the relevant qualifications or procedures in a timely manner, they may be deemed to be undertaking business operations without the

corresponding qualifications or approvals, and shall bear the legal liability. For example, if an enterprise, after the epidemic ends, fails to apply for an extension of its work safety license in a timely manner and the license has expired, it may risk being ordered to suspend production, have its illegal gains confiscated, and be fined a sum up to an amount of CNY 500,000; if the work causes a serious accident or has serious consequences, which constitutes a criminal act (such as negligently causing a serious accident), it may also be investigated for criminal liability.

III. Conclusion and Suggestions

The COVID-19 epidemic may have caused some enterprises to fail to apply for or complete certain qualifications/licenses or legal procedures in respect to environmental protection and safety production in accordance with past procedures. These enterprises should pay attention to the compliance requirements in respect to the relevant supplementary applications and extensions and, if necessary, communicate promptly with local regulatory authorities (including environmental protection, safety supervision and sanitary and health authorities) to ensure compliance upon the resumption of construction and production. The epidemic is ongoing, and JunHe continues to support you. If you have further questions, or need JunHe's assistance in handling any relevant government formalities or need further information, please contact us via email: ecoenvpro@junhe.com.

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