



The State Council of the People's Republic of China Adopts List-based Management for All Items Requiring Administrative Approval across the Nation

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On June 3, 2021, the State Council issued a “**Circular on Further Energizing Market Entities by Advancing Reforms in the ‘Separation of Permits and Licenses’**” (Guofa [2021] No. 7, hereinafter “Circular No. 7”), adopting list-based management for all items requiring administrative approval across the nation. Circular No. 7 is effective from July 1, 2021.

Key Takeaways

- The “Separation of Permits and Licenses” reform classifies business items requiring approval into four schemes managed based on the list.
- The four schemes are: explicit abolition of the approval process, replacement of the approval process with registration, implementation of a notification and commitment system, and optimization of approval services.
- Two versions of the list of items requiring business approval established at the central government level have been released: one nationwide version and the other for the Pilot Free Trade Zones.

1. Background of the Policy

Reform through the “Separation of Permits and Licenses” involves separating the operating permits issued by the department supervising each industry from the business licenses issued by the department supervising business registration subsequently, and where items requiring approval are included in the scope of the business, to simplify such approval processes.

Reform through the “Separation of Permits and Licenses” is considered to have a vital role in the ongoing reform of the system of administrative approvals and authorizations, and is an important measure to promote and deepen reforms in the country’s business systems, actualize new development concepts, further optimize the business environment, stimulate the market vitality, and build a high-standard market system.

Since 2015, the State Council has selected some of the items requiring operating permits and, in two phases, tested reform through the “Separation of Permits and Licenses” in the Shanghai Pudong New Area. In 2019, the State Council issued a “Circular on Implementing a Full-coverage Pilot of Separation of Permits and Licenses Reform in the Pilot Free Trade Zone” (Guofa [2019] No. 25), and trialed **list-based administration covering all items requiring operating permits established by law, administrative regulations, and decisions of the State Council (hereafter, “established at the central level”)**. Circular No. 7 has **expanded** the pilot conducted in the Pilot Free Trade Zone **to the entire country**.

2. Main Points Regarding this Regulation

Circular No. 7 separated **the items established at the central level as requiring operating permits** into four schemes: **explicit abolition of the approval process, replacement of the approval process with registration,**

implementation of a notification and commitment system, and optimization of approval services. Circular No. 7 also listed the 523 reform measures to be implemented across the country (Appendix 1 of Circular No. 7) as well as a 69-item list (Appendix 2 of Circular No. 7) of additional reform measures for implementation in Pilot Free Trade Zones (hereafter, “FTZ”).

[Fig.1] Specifics Regarding the Four Reform Schemes		
Reform Scheme	Implementation Following Reform	Relevant Areas Requiring Operating Approval (With examples)
<p>1. Explicit abolition of the approval process 68 items nationwide, 14 items in the FTZ</p>	<ul style="list-style-type: none"> ✓ Companies will be able to begin business as soon as they obtain an operating permit. ✓ Administrative organization, companies/business entities, industry organizations and others many not ask companies to provide documentation of approval from the relevant authorities. 	<p>Foreign-owned enterprises, companies active in foreign trade, construction work, transportation and logistics, brokerage services, etc. Example: Regarding approval for Class 3 licenses for real estate development companies, overseen by the Ministry of Housing and Urban-Rural Development (Article 17, Appendix 1 of Circular No. 7), the reform will reduce the four licensing classes for real estate development companies to two classes, abolishing the existing Class 3 and making necessary adjustments to the approval conditions for Class 2.</p>
<p>2. Replacement of approval process with registration 15 items nationwide, 15 items in the FTZ</p>	<ul style="list-style-type: none"> ✓ In principle, companies will be able to register after starting, and start business as soon as they obtain an operating permit. If it is really necessary to register in advance, companies may start business by completing registration procedures. ✓ In cases where a company submits registration documents as specified by the regulations, the relevant supervisory body must register the company on the spot. The supervisory body may not refuse the application for registration. 	<p>Trade and logistics, education and training, healthcare, foods, finance, etc. Example 1: Regarding permits for managers of companies engaged in foreign trade, overseen by the Ministry of Commerce (Article 74, Appendix 1 of Circular No. 7), the Ministry will abolish its approval-based supervision of companies engaged in foreign trade, and convert to supervision based on registration. Example 2: Regarding permits for internet information services relating to medical products, overseen by the National Medical Products Administration (Article 28, Appendix 2 of Circular No. 7), the government will abolish the approval process in the FTZs and convert to supervision based on registration.</p>
<p>3. Implementation of a notification and commitment system</p>	<ul style="list-style-type: none"> ✓ The relevant supervisory body may list up quantifiable and operational conditions for business licensing without 	<p>Agriculture, manufacturing, production services, personal consumption, telecommunications, energy, etc. Example 1: Regarding sanitation permits for</p>

<p>37 items nationwide, 40 items in the FTZ</p>	<p>umbrella clauses as allowed by law, clarify the rules of supervisory management and the consequences of violating agreed items, and notify companies of these items in one communique.</p> <ul style="list-style-type: none"> ✓ Supervisory bodies must not require companies to submit omissible documentation for assessment because the company has already registered commitment. Where a company has been allowed to submit documents for assessment after obtaining an operating permit, the supervisory body must conduct procedures with tolerance for the deficiency and request ex post facto submissions with a deadline. ✓ Where the company is registering its voluntary commitment and is submitting the required documentation, the application shall be reviewed and approved/rejected on the spot. ✓ Where a company is seeking a permit through the notification and commitment system, the relevant supervisory body may reinforce its supervisory management during and after the application, and in cases where it is unquestionably necessary, may pursue a full assessment. ✓ If a company is found not to meet the conditions for a permit, the supervisory body may conduct an investigation and deal with the case in accordance with the law; violations of the law that discredit the company will be registered in the company's record of credibility, and the penalties for 	<p>public places, overseen by the National Health Commission (Article 102, Appendix 1 of Circular No. 7), the government shall formulate and publish a template for notification and commitment so that applicants will know of the conditions for approval as well as the necessary documentation at the same time. Where the applicant has voluntarily committed to the conditions for approval and is submitting the required documentation, the application shall be reviewed and approved/rejected on the spot.</p> <p>Example 2: Regarding hazardous chemical handling permits (excluding storage), overseen by the Ministry of Emergency Management (Article 60, Appendix 2 of Circular No. 7), the government shall formulate and publish a template for notification and commitment so that applicants will know of the conditions for approval as well as the necessary documentation at the same time. Where the applicant has voluntarily committed to the conditions for approval and is submitting the required documentation, the application shall be reviewed and approved/rejected on the spot.</p>
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	<p>damaging trustworthiness will be carried out as regulated in the relevant laws.</p> <ul style="list-style-type: none"> ✓ The relevant supervisory body must record without delay each company’s fulfillment of its commitments in the company’s record of credibility, and collate the information on the national platform for sharing credibility information. 	
<p>4. Optimization of approval services 411 items nationwide, none in the FTZ</p>	<ul style="list-style-type: none"> ✓ For the 15 operating permit processes such as the assessment and issuance of production licenses in relation to important industrial products (excluding food-related products and fertilizers), authorization to conduct the assessment will be delegated so as to make it easier for companies to pursue applications in their local area. ✓ For the 256 operating permit processes such as the assessment and issuance of permits for security services, the requirements for permits and screening data will be simplified to reduce the burden of application for companies. ✓ For the 140 items operating permit processes such as the assessment for establishing an accounting office, the assessment process will be optimized and the time required for assessment will be reduced to improve the efficiency of reviews. ✓ For the 18 processes such as the assessment for cargo warehouses for tariff supervision and management, the items establishing the effective period of operating permits for the 18 items will be amended to abolish or extend the effective period so as to make it easier for companies to continue business. ✓ For the 13 operating permit processes for which quantitative restrictions are established, such as the assessment for the establishment of business entities operating internet access services, the quantitative restrictions shall be abolished or reduced to rational levels, and the supervisory body shall periodically release information on the conditions governing overall numbers, the number of approved active companies, and the order of applications, etc., to promote orderly competition among companies. 	

Circular No. 7 allows the People’s Government at the provincial level to determine the implementation of even more powerful reform measures within the scope of their authority. It allows items for the direction of reforms of business approvals established under regional laws and regulations and according to the regulations of regional governments (“established at the regional level”) to be planned and determined by the People’s Government at the provincial level.

To strengthen the integration of and synergy between individual reform measures, Circular No. 7 is regulated as follows: (1) All items for the reform of business approvals shall be included in administrative lists, and there shall be no restrictions on companies participating in related industries or doing business outside these lists. (2) Deeper reform of the business registration system will be pursued, the registration of business scopes that have become normative shall be developed, and services shall be provided for companies to select the scope of their business of

their own volition. (3) The collation and use of electronic permits and licenses shall be promoted so that all permits and checks relating to companies can be made electronic by 2022.

In order to reform and strengthen supervision and administration during and after the reforms, Circular No. 7 is regulated as follows: (1) Opening up and regulation shall be interrelated, and in the same way, specific requests shall be made in the spirit of both opening up and regulation so that the responsibilities of supervision and administration can be properly fulfilled and no unsupervised or unadministered areas are allowed to emerge. (2) The leading role of government, self-governance by companies, self-regulation of industries, and supervision by society shall all be strictly maintained, companies shall be made to take sufficient self-accountability, and a sound framework for pluralistic, collective management and mutually supportive, cooperative supervision and management shall be introduced. (3) Regulations for supervision and management that are nationally uniform, streamlined and easy to implement shall be established per domain, and clear guidelines for supervision and management shall be provided. (4) Methods of supervision and management that fit the characteristics of the industry must be further improved, and a system barring companies and related persons who bear responsibility for serious violations from activity in the industry must be structured and made to function soundly, to strengthen the ability of supervision and management to deter violations.

3. Impact on Companies

The intent of Circular No. 7 is to reduce the burden of items requiring business approval across an even wider range of companies and a larger number of industries, reduce the barriers to market entry, and stimulate the market in the business environment. By “Reducing Licences After Permits” (reducing the need to acquire business licences after obtaining operating permits) and streamlining approvals and authorizations, and by signalling through greater market orientation that the government is working to resolve the problem that companies must obtain a large number of operating permits as well as the problem that some operating permits are difficult to obtain, the government hopes that the reduced burden will lead to more entrepreneurship.

After a fully inclusive list for business approval administration has been implemented, there must be no restrictions on companies participating in related industries or doing business outside these lists. After reforms have taken place in the “Separation of Permits and Licences”, the documentation to be submitted and fees for business approval, as well as the documents and time needed, will be reduced. In an equitable, transparent, and convenient business environment, companies are able to make business decisions of their own volition, enabling them to innovate and develop.

Government bodies are strengthening their supervision and management of companies, both during and after processes, particularly with regard to business approvals through the notification and commitment system. Thus, while companies can benefit from the merits of the policy, companies need to maintain loyalty, continually adapt their business conditions, and advance their production and economic activities based on the rules and regulations.

We will continue to follow up on related information and provide further updates as they come.

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