



Compliance with China's Amended Work Safety Law

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Abstract for Publication: An analysis of major changes to the PRC Work Safety Law and their impact on manufacturing companies in China

Recently, China amended the *Work Safety Law of the People's Republic of China* (《中华人民共和国安全生产法》) (the “WSL”). The amendment became effective on September 1, 2021 and will impact manufacturing companies in China (the “Manufacturers”).

In this article, we will summarize major changes to the last version of the WSL, namely the 2014 version, and analyze their impact on Manufacturers.

A. Background of the WSL

The WSL, of which the first version came into effect in 2002, with two amendments in 2009 and 2014, respectively, has laid a foundation for supervising and regulating work safety in China. Specifically, the WSL plays an important role in preventing and reducing industrial accidents, as well as punishing companies and responsible persons for their illegal acts.

However, before the latest amended WSL (the “WSL 2021”) took effect, there were some problems in the WSL’s implementation. For example, some persons who should have assumed liability for accidents were able to escape from punishments; punishments for some illegal acts were too lenient; and there was no rule in certain areas.

Against this backdrop, China unveiled the WSL 2021 to solve such problems.

B. Major Changes to the WSL

(1) Entire Personnel Responsibility System

The WSL 2021 requires Manufacturers to establish an “Entire Personnel Responsibility System (全员安全生产责任制)” to replace the original “Principal Person(s) in Charge Responsibility System (主要负责人责任制)”. Under the new system, all employees in a Manufacturer, including not only the principal person(s) in charge of the Manufacturer, but also all its other employees, will assume work safety responsibilities together.

The responsible persons under the WSL 2021 can be roughly divided into four categories that may overlap each other, i.e., principal person(s) in charge (主要负责人), other responsible persons (其他负责人), work safety manager(s) (安全生产管理人员), and employees.

The new requirements regarding the responsibilities of the abovementioned four categories are summarized as follows:

No.	Categories	New Requirements
1	Principal Person(s) in Charge	<ul style="list-style-type: none">The principal person(s) in charge of a Manufacturer should (1) improve “Work Safety Standardization (安全生产标准化)”, and (2) establish a “Dual Prevention Mechanism (安全风险分级管控和隐患排查治理双重预防机制)”, which will be explained further

		in Section B (2).
2	Other Responsible Persons	<ul style="list-style-type: none"> The industry manager, the business manager, and the production and operation manager of a Manufacturer should also oversee work safety¹.
3	Work Safety Manager(s)	<ul style="list-style-type: none"> The work safety manager(s) of a Manufacturer should (1) identify and assess sources of danger (危险源辨识和评估), and (2) assist the principal person(s) in charge in managing work safety.
4	Employees	<ul style="list-style-type: none"> The employees of a Manufacturer in different positions should take their corresponding responsibilities for work safety. For example, the employees should comply with the work safety rules of the company.

Furthermore, the WSL 2021 stipulates that employees have the right to obtain necessary protective gears to safeguard themselves against harm and danger during the manufacturing process.

(2) Dual Prevention Mechanism

The WSL 2021 requires Manufacturers to set up a “Dual Prevention Mechanism (安全风险分级管控和隐患排查治理双重预防机制)”, which includes a “Risk Level System” and a “Potential Risk Identification System”.

Under the “Risk Level System”, Manufacturers are required to control and manage different safety risks by different risk levels. Manufacturers should identify, assess, and classify safety risks, and take measures against a safety risk according to its corresponding risk level.

Also, with the implementation of the “Potential Risk Identification System”, a Manufacturer should inform both the enforcement agency and the employees of any assessment/investigation results of potential risks.

(3) Public Interest Litigation System

Some local governments used to show tolerance to Manufacturers’ safety accidents, or even turn a blind eye to such accidents. To end this situation, the WSL 2021 grants procuratorates the right to initiate public interest litigation.

Procuratorates have the right to (1) pursue civil lawsuits against companies for the sake of public interest, and (2) bring administrative proceedings against enforcement authorities in cases where they are negligent in supervising or punishing violators.

(4) Compulsory Safety Liability Insurance System

According to Article 51 of the WSL 2021, companies in high-risk industries shall obtain safety liability insurance. This is a new statutory requirement.

(5) Heavier Punishment

Last but not least, the WSL 2021 governs some new categories of illegal acts (see items (i) and (ii) below) and imposes harsher punishment on illegal acts (see items (iii) to (v) below) mainly in the following aspects:

¹ Article 3 of the WSL 2021: Work safety efforts shall be subject to the requirements that whoever takes charge of industries, business, and production and operation must be responsible for safety (“管行业必须管安全、管业务必须管安全、管生产经营必须管安全”).

- (i) Article 49 of the WSL 2021 stipulates new requirements for companies that produce or store dangerous substances in respect of management of qualifications.
- (ii) Article 99, Article 102, and Article 103 of the WSL 2021 newly identify three categories of illegal acts as “dangerous work (危險作業)”.
- (iii) The amounts of penalties have increased. For example, the maximum amount of a penalty for a particularly serious accident reaches 100 million yuan.
- (iv) Penalties will be calculated in more diverse methods. For example, “continuously calculating penalty by the number of days (按日连续处罚)”², and “calculating penalty by a proportion of the company’s revenue or illegal income”.
- (v) There will be more types of punishment for violations, such as suspension of operation, revocation of business license, restriction on engaging in safety-related assessment, certification, testing, or inspection within five years and permanent ban against re-entering an industry or occupation.

C. Impact on Manufacturers

Based on the above major changes, we analyze the possible impact on Manufacturers and make suggestions as following:

No.	Major Changes	Impact and Suggestions
1	Establishment of the Entire Personnel Responsibility System	<ul style="list-style-type: none"> • Manufacturers may need to pay attention to the new requirements regarding the responsibilities of the four categories as described in Section B (1). • For a Manufacturer to establish this system, we suggest that it: <ol style="list-style-type: none"> (1) set up a professional sub-committee within the existing safety committee; (2) take the safety compliance factor into account when assessing an employee’s performance and use it as an indicator for bonus, salary increase, or promotion; and (3) provide its employees with more training on work safety.
2	Establishment of the Dual Prevention Mechanism	<ul style="list-style-type: none"> • This will be one of the priorities for Manufacturers and their principal person(s) in charge. • We suggest Manufacturers study and establish this mechanism according to the <i>Working Guidance on Containing Serious Accidents by Addressing Both Symptoms and Root Causes</i> (《标本兼治遏制重特大事故工作指南的通知 (安委办[2016]3号)》) and the <i>Opinions on the Implementation of the Working Guidance on Containing Serious Accidents and the Establishment of Dual Prevention System</i> (《关于实施遏制重特大事故工作指南构建双重预防机制的意见 (安委办

² Article 112 of the WSL 2021: Where any producer or business operator that is ordered to make a correction and has been fined for violation of this Law refuses to do so, the authority in charge of supervision and control over work safety may, as of the following date after the order for correction is made, impose consecutive fines on a daily basis based on the original amount of fine

(生产经营单位违反本法规定，被责令改正且受到罚款处罚，拒不改正的，负有安全生产监督管理职责的部门可以自作出责令改正之日的次日起，按照原处罚数额按日连续处罚)。

		[2016]11 号)》).
3	New Categories of Illegal Acts and Heavier Punishment	<ul style="list-style-type: none"> Manufacturers may need to study the new categories of illegal acts and the corresponding punishments under the WSL 2021, and then provide their employees with more training on work safety. Companies that violate Article 99, Article 102, or Article 103 of the WSL 2021, as mentioned in Section B (5) (ii), may face administrative or even criminal punishments. Therefore, Manufacturers involved in the production or storage of dangerous substances shall pay particular attention. Manufacturers may also need to pay attention to the new requirements regarding management of qualifications under Article 49 of the WSL 2021, as mentioned in Section B (5) (i). Failure to comply with such requirements may result in revocation of qualifications and a hefty amount of penalty.
4	Establishment of the Compulsory Work Safety Liability Insurance System for Companies in High-risk Industries	<ul style="list-style-type: none"> The scope and implementation rules for this system are not yet clear. For example, the WSL 2021 does not explain whether using dangerous substances for production is subject to compulsory safety liability insurance. We suggest keeping an eye on the follow-up implementation rules.

*For the purpose of clarification, dangerous substances refer to substances that can endanger people's life and property safety, including but not limited to inflammable materials, explosives, hazardous chemicals, and radioactive substances.