CHINA AMENDS THE PRODUCTION SAFETY LAW OF THE PEOPLE’S REPUBLIC OF CHINA

The draft amendment of the Production Safety Law of the People’s Republic of China (P.R.C) was passed at the 10th conference of 12th Standing Committee of the National People’s Congress and will be implemented from 1 December 2014. This new law strengthens the importance of production safety, further reinforces the responsibility of the enterprise, and updates the related law and regulation, increasing efforts to identify the parties responsible for production accidents and prosecuting them, and establishing a people-centered concept.

Production safety is a continuing struggle and is of key importance to each employee as well as being in the direct interest of the enterprise. In order to prevent and reduce production accidents, the People’s Republic of China has amended the “Production Safety Law of the P.R.C” (hereinafter referred to as the “original law”), and the changes will be implemented from 1 December 2014. Compared to the “original law”, the major changes in the “new law” are as follows:

1. It clearly stipulates that the enterprise remains liable for production safety even where technology and management services are provided by a third party.
2. It states that enterprises should build a production safety responsibility system, clearly defining the responsibilities of each position, the scope and criteria of assessment and reinforcing the monitoring of the effectiveness of the responsibility system.
3. It clarifies the seven responsibilities of the production safety management institution and its staff.
4. It emphasises that enterprises should reinforce safety precautions and emergency responses, and improve the underlying risk assessment process in order to eliminate the potential issues.

Improve the professionalism of staff involved in safety production, and develop a system for registered safety engineers. The professionalism of corporate employees, especially production safety staff plays a critical role in the safety process. To reinforce this, the new law clearly defines the qualification required of health & safety staff, and requires enterprises to educate and train staff on production safety, ensure that they have access to the necessary safety technology, be familiar with health & safety regulations, operational skills, emergency measures and their rights...
and responsibilities in terms of production safety. Unqualified staff should not be used in such positions. In the meantime, the new law develops a system for registered safety engineers and requires that enterprises should employ registered safety engineers for safety management. In addition, the standard for developing safety supervising units has been raised, which means that any enterprise with over 100 employees should set up production safety management units or employ external professionals. This will impact on millions of enterprises. Based on the new law, enterprises will have to increase investment in equipment and infrastructure so as to raise production safety standards.

Build up the integrity system for production safety and increase efforts to identify the parties responsible for production accidents. The “New Law” stipulates administrative punishments and, potentially career restriction, through disbarment from senior positions. It has escalated this topic from an administrative regulation to a legal provision and stipulates eight penalty clauses against production units and their owners and senior management. It also further clarifies that anyone convicted of such an offence may not serve as Principal or Director in the future. The “New Law” has also significantly raised the fines for accident liability in processing units, these now range from RMB 200 thousand to RMB 20 million depending on the seriousness of the accident.

In fact, the minimum fine remains the same, while the maximum fine was raised by 2 to 5 times according to varied local economy levels and enterprise sizes. It is worth mentioning that taking corrective action within a time limit will not be a mitigating circumstance, which strengthens the deterrent to illegal practices in production safety, helps the government save administration costs and improves effectiveness of implementation.

Further there is a recommendation to enterprises to buy safety responsibility insurance and for the government to set up an announcement and notification system for serious illegal behaviour.

All in all, the ‘new law’ will bring significant consequences to enterprises. It requires that enterprises should establish and improve the responsibility system for production safety in conjunction with the enterprise’s technology and a rule to “embed safety into production”. It clearly defines the responsibilities of all employees in production safety in accordance with the relevant provisions of the “Production Safety law of P.R.C”. Meanwhile, the enterprise should self-assess their own shortcomings and take action to ensure the maintenance of facilities and equipment and undertake effective risk assessments, prompting employees to pay more attention to production safety, so as to avoid safety incidents and promote a win-win situation.

Data source: The Standing Committee of National People’s Congress

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