

SECTION 9

TECHNICAL SCIENCES, PRODUCTION AND TECHNOLOGY

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Sviatskyi V. V.

Candidate of Technical Sciences, Associate Professor,
Associate Professor of the Department of
Mechanical Engineering,
Mechatronics and Robotics,
Central Ukrainian National Technical University

CONCEPTUAL CHANGES IN THE OCCUPATIONAL SAFETY MANAGEMENT SYSTEM IN UKRAINE

The transition from the current Law of Ukraine “On Occupational Safety” to the new draft law “On Workers’ Safety and Health at Work” represents not merely an adaptation of the regulatory framework but a fundamental restructuring of the very paradigm of workplace safety assurance. This transition marks a shift from a reactive, inspection-based approach to a proactive, risk-oriented management model. Although the current law had a comprehensive nature, it essentially functioned as a system of legal, organizational, technical, sanitary, and preventive measures that involved conducting regular inspections, audits, and workplace certifications. While these measures were important, they often became formalistic, focusing on documentary compliance rather than on real hazard analysis and elimination.

The new law radically changes the focus, moving from monitoring the performance of individual procedures to monitoring outcomes – namely, achieving minimal occupational risks for each employee. This means that the employer’s obligations must become not just formal but effective. The law establishes the prevention of occupational risks as the top priority of state policy and introduces principles of a systematic approach to managing these risks.

The implementation of EU Council Directive 89/391/EEC is another critical element of the new concept. This directive lays the foundation for systematic management of workplace safety and health, which involves planning, organization, execution, verification, and corrective action. The new law directly introduces key concepts such as risk assessment, occupational risk, incident, workplace, as well as procedures for auditing the occupational safety and health management system. In this way, it creates a legal basis for formalizing all stages of the safety life cycle: from initial hazard analysis during workplace design to assessing the effectiveness of implemented measures through internal audits. This systematic approach aligns with global best practices and provides for continuous improvement of the management system rather than one-time inspections.

The new law requires enterprise management to independently conduct a comprehensive risk analysis related to specific equipment, technologies, and human activities. This requires not just the presence of a health and safety specialist but the formation of a safety culture, where safety becomes part of every planning and execution process. The shift of focus from formal compliance to achieving real outcomes – safety – is the most significant conceptual contribution of the new law. The Occupational Safety Management Service (OSMS) will also undergo a deep transformation in the role of the safety specialist. The law radically rethinks the role of this unit: now it is not merely an executor but a strategic partner of enterprise management in creating a safe environment. The key requirement is the professional independence of the occupational safety specialist. This means that the specialist has the right to express professional judgments and recommendations daily, without fear of pressure from production management. They become the central point for coordinating all activities related to risk assessment, safety planning, and monitoring their implementation.

The structure and obligations of this unit are detailed depending on the enterprise’s workforce size, demonstrating a differentiated approach: the need for a professionalized safety management system grows along with the risks associated with the enterprise’s scale and production type.

Another important change is the evolution of the specialist’s role. They now lead the risk assessment process, head working groups, develop safe

work methodologies, and train personnel based on specific risks rather than general rules. This shift requires not only expertise in occupational safety but also the ability to analyze technological processes, interact with management across departments, and communicate complex technical issues in simple terms. This transforms the safety specialist from a controller into the architect of safety at the enterprise.

The new draft law “On Workers’ Safety and Health at Work” restores the true meaning of the principle of full employer responsibility for creating safe working conditions, making the employer the absolute and non-delegable guarantor of safety. A key innovation is the provision that the employer bears full responsibility for ensuring safe working conditions, even when outsourcing specific tasks to third-party specialists.

Thus, the new law seeks to restore accountability to the level where it belongs – to those who make strategic decisions about production, technology, and resources. This creates a new reality in which safety costs are no longer operational expenses but part of strategic risk management. An enterprise that saves on safety risks not only fines but also direct legal liability for damage to employees’ life or health.

The main conceptual difference between the two pieces of legislation is the shift from a reactive, procedural approach to a proactive, results-oriented one. Based on EU Council Directive 89/391/EEC, it envisions a systemic risk management process beginning with prevention as a priority and including four key stages: assessment, elimination or minimization, adaptation of working conditions to the worker, and prioritization of collective over individual protection. This means that the enterprise not only installs guards around hazardous equipment (collective protection) but also analyzes whether it is possible to remove the hazard through equipment design changes or remote control.

The new law requires employers to regularly assess risks at every workplace and develop and implement measures to minimize them. This obliges enterprises to create internal systems where safety is integrated into standard workflows. It also requires tracking not only accidents but also potential incidents – events that could have led to injury but did not due to chance. This approach allows for analyzing trends and identifying systemic issues that could lead to serious consequences in the future. It represents a radical paradigm shift, requiring all levels of enterprise management – not

just the safety specialist – to change their mindset and approach every issue from a safety perspective.

Although the new law focuses on increasing employer responsibility, it also introduces significant changes to employee obligations. The draft law establishes principles encouraging employees to be not just executors but active participants in ensuring safety. One of the most important innovations is the right of the employee to refuse to perform work if they have reason to believe that it poses a serious, immediate, and unavoidable danger to their life or health.

Another significant change is the shift in consequences for irresponsible actions. Whereas previously noncompliance with rules could lead to disciplinary sanctions, under the new law refusal to undergo training or instruction now leads to immediate removal from work without pay. This makes training not just a formal obligation but a necessary condition for continued employment, increasing its importance and making employees responsible for their own learning. Additionally, the new law grants employees the right to participate in consultations on safety and health matters. This motivates employees to actively contribute to improving workplace safety conditions rather than merely pointing out existing shortcomings.

The transition to the new law “On Workers’ Safety and Health at Work” has direct and significant implications for machine-building enterprises, a key sector of industry with a high-risk profile. The law introduces a number of specific obligations requiring major changes in management systems, processes, and costs, including: establishing a dedicated structural unit, using risk management as a core process, conducting safety system audits, applying financial penalties for non-compliance, modifying equipment use, and protecting the most vulnerable categories of workers.

Overall, the new law for machine-building enterprises means a shift from formal rule compliance to creating an effective, scientifically grounded, and auditable safety management system. This requires significant investment in human resources, training, and technology, as well as the development of a safety culture where every worker feels like a part of the protection system.