

US Departments of Justice and Labor To Increase Criminal Prosecutions of Worker Safety Laws

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On December 17, 2015, the US ***Departments of Labor (“DOL”)*** and ***Justice (“DOJ”)*** signed a [memorandum of understanding](#) in an effort to more effectively prosecute workplace safety crimes under the Occupational Safety and Health Act (“OSH Act”), the Mine Safety and Health Act (“MSHA”), and the Migrant and Seasonal Agricultural Worker Protection Act (“MSPA”). The announcement comes on the heels of recent criminal prosecutions for safety violations under the US Criminal Code (Title 18) and both the OSH Act and the Mine Act and will very likely lead to even more criminal prosecutions for violations of worker safety laws in the future.

The memorandum moves violations of the OSH Act, MSHA, and MSPA to the purview of the DOJ Environment and Natural Resource Division’s Environmental Crime Section and provides a framework for increased coordination between DOJ and DOL to more effectively investigate and prosecute worker endangerment violations. In a [letter](#) sent to all US Attorneys, Deputy Attorney General Sally Quillian Yates urged federal prosecutors to work with the Environmental Crimes Section “to increase the frequency and effectiveness of criminal prosecutions of worker safety violations.”

Furthermore, while the worker safety statutes generally provide only for misdemeanor penalties, prosecutors have now been encouraged to consider charging other serious offenses that often occur in conjunction with worker safety crimes – including false statement, obstruction of justice, witness tampering, conspiracy, and environmental and endangerment crimes – to enhance penalties and increase deterrence. “With penalties ranging from 5 to 20 years’ incarceration, plus significant fines, these felony provisions provide additional important tools to deter and punish workplace safety crimes,” Yates said.

“We have seen that employers who are willing to cut corners on worker safety laws to maximize production and profit, will also turn a blind eye to environmental laws,” said Assistant Attorney General John C. Cruden for the DOJ’s Environment and Natural Resources Division. “Working with our partners in the Department of Labor and law enforcement, we will remove the profit from these crimes by vigorously prosecuting employers who break safety and environmental laws at the expense of American workers.”

The announcement is expected to result in increased scrutiny for worker safety violations, especially for those resulting in a worker fatality. More information on DOJ's Worker Endangerment Initiative is available [here](#).

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