

DOJ Announces That Criminal OSHA Prosecutions May Also Include Felony Environmental Crimes

December 22, 2015 | [High Stakes Employment Issues, Currents - Employment Law](#)



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On Dec. 17, the Department of Justice (DOJ) announced that criminal prosecutions under the Occupational Safety and Health Act (OSHA), the Mine Safety Act, the Migrant and Seasonal Agricultural Protection Act and the Atomic Energy Act are being moved to the Environmental Crimes Section of the DOJ's Environment and Natural Resources Division. Currently, under the OSH Act, an employer can only be prosecuted for criminal penalties in cases where the employer commits a "willful" violation of OSHA regulations resulting in the death of an employee. These criminal penalties under the OSH Act are classified as misdemeanors. Under this new [initiative](#), "prosecutors have been [encouraged to consider Title 18 and environmental offenses](#), which often occur in conjunction with worker safety crimes to enhance penalties and increase deterrence." (emphasis added). Criminal environmental prosecutions are classified as felonies with penalties ranging from five to 20 years of incarceration along with significant fines. Please see a recent [Alert](#) from our Environmental Department for further details. As we noted in a prior post in [November](#), employers are already facing the specter of fines increasing over 80 percent next year for OSHA citations, and now there is the possibility of felony convictions for criminal violations. More than ever, employers should be proactive in auditing their OSHA policies and training for OSHA compliance before the inspector shows up at their door.

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