

## ALERTS

### Environmental Law Alert - Criminal Worker Safety Prosecutions Shifted To DOJ's Environmental Crimes Section

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In a Dec. 17 memo from Deputy Attorney General Sally Quillian Yates, the U.S. Department of Justice (DOJ) announced that criminal prosecutions of worker safety violations under the Occupational Safety and Health (OSH) Act, the Mine Safety Act, the Migrant and Seasonal Agricultural Worker Protection Act, and the Atomic Energy Act are being moved to the Environmental Crimes Section of the DOJ's Environment and Natural Resources Division.

According to Yates, the "announcement demonstrates a renewed commitment by both the Department of Labor and the Department of Justice to utilize criminal prosecution as an enforcement tool to protect the health and safety of workers."

Because criminal penalties under the OSH Act are classified as misdemeanors, a goal of the move is to include additional charges, including charges under various environmental statutes that can result in more severe sanctions as part of worker safety prosecutions where appropriate. Unlike the OSH Act, criminal violations of many environmental statutes, including the Clean Air Act, the Resource Conservation and Recovery Act, and the Clean Water Act, can be charged as felonies that include significant fines and longer periods of incarceration. Under this new initiative, "prosecutors have now been encouraged to consider utilizing Title 18 and environmental offenses, which often occur in conjunction with worker safety crimes, to enhance penalties and increase deterrence."

Information about the worker endangerment initiative as well as a copy of the Dec. 17 Yates Memo and the Memorandum of Understanding between DOJ and the Department of Labor (DOL) can be accessed on the DOJ's website.

For more information, contact the Barnes & Thornburg attorney with whom you normally work, or one of the following attorneys: Mike Scanlon at 317-231-7387, [michael.scanlon@btlaw.com](mailto:michael.scanlon@btlaw.com); Patty Ogden at 317-231-7712 or [Patricia.Ogden@btlaw.com](mailto:Patricia.Ogden@btlaw.com); Mark Kittaka at 260-425-4616 or [mark.kittaka@btlaw.com](mailto:mark.kittaka@btlaw.com); or Don Lawless at 616-742-3994 or [donald.lawless@btlaw.com](mailto:donald.lawless@btlaw.com).

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