



## Environment, Land Use & Natural Resources / Labor & Employment / Government & Internal Investigations ADVISORY ■

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### DOJ Revs Up the Worker Endangerment Initiative

by [Doug Arnold](#) and [Geoff Rathgeber](#)

On March 15, Assistant Attorney General John Cruden provided new insight into the renewed emphasis on criminal prosecution of worker safety laws by the U.S. Department of Justice's Environment and Natural Resources Division (ENRD).

Cruden's remarks followed on the heels of milestones for the Worker Endangerment Initiative—a joint effort of the DOJ, Occupational Safety and Health Administration (OSHA), Mine Safety and Health Administration (MSHA) and Environmental Protection Agency (EPA) to prosecute workplace safety violations, including through use of environmental statutes. These milestones include the December 2015 [Yates Memo](#) and [Memorandum of Understanding Between the DOJ and DOL](#), which transfers responsibility for criminal prosecution of worker safety laws to the Environmental Crimes Section.

According to Cruden, the initiative is a DOJ "priority" of the "highest level." To that end, the department has structured itself much like major corporations that charge one particular official with environmental, health and safety responsibility. In the DOJ's case, that "official" is now the ENRD.

By tasking the ENRD with enforcement of worker safety prosecutions, the DOJ hopes to buck its perceived historical under-enforcement of such cases. The ENRD intends to use the endangerment provisions of the Clean Air Act, Clean Water Act and Resource Conservation and Recovery Act in particular to bring actions for violations.

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To help effectuate this enforcement initiative, Cruden announced the following steps are being undertaken:

- The ENRD is coordinating with OSHA in the development of settlement frameworks and demands for injunctive relief.
- The ENRD is cross-training between federal agencies (e.g., OSHA and EPA) so that the agencies understand each other's authorities, processes and resources.
- Agencies are sharing information to accelerate case development and identify industries or specific industrial activities that have historically gone un- or under-enforced.
- The ENRD is ensuring that each case referral is reviewed for potential worker safety concerns.

In sum, Cruden's remarks confirm that the DOJ will be more active in reviewing and prosecuting workplace safety violations for both environmental and OSHA-related offenses. Accordingly, companies should expect heightened regulatory scrutiny in the areas of environmental health and safety compliance.

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Alston & Bird's Environment, Land Use & Natural Resources Group is complemented by the recent return of Thomas Walker to the firm's Government & Internal Investigations Group. Prior to his return, Thomas worked as a federal prosecutor and was most recently the U.S. Attorney for the Eastern District of North Carolina, a district encompassing more than 300 miles of coastline and well known for prosecuting violations of environmental law. During his four and a half years as U.S. Attorney, Thomas handled a wide range of criminal and civil matters and oversaw a number of environmental misconduct investigations in which he secured more than \$100 million in fines and settlement payments.

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